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May 14, 2010

To All Responders

ADDENDUM 1
IM-0055-01(097) / 105877301

Lincoln County

Dear Sir or Madam:

Please attach to and make a part of the proposal assembly the attached sheets:

Replace pages 2, 5, 8, 38, 48, 49, 72, 73, 76, 77, 79, 98, 200, 226, 227, 264, 268, 278 and insert pages 278 A - 278 AO. Also attached is Sheet 2 of Section 905 – Proposal (Addendum No. 1), this sheet should be substituted for similar sheet now in the proposal.

Kindly acknowledge receipt and attachment of the proposal sheets by signing below and returning this letter.

Yours very truly,

B. B. House, P.E.
Contract Administration Engineer

Contractor

By _____

Date _____

SECTION 905 -- PROPOSAL (CONTINUED)

I (We) further propose to execute the attached contract agreement (Section 902) as soon as the work is awarded to me (us), and to begin and complete the work within the time limit(s) provided for in the Specifications and Advertisement. I (We) also propose to execute the attached contract bond (Section 903) in an amount not less than one hundred (100) percent of the total of my (our) part, but also to guarantee the excellence of both workmanship and materials until the work is finally accepted.

I (We) enclose a certified check, cashier's check or bid bond for **five percent (5%) of total bid** and hereby agree that in case of my (our) failure to execute the contract and furnish bond within Ten (10) days after notice of award, the amount of this check (bid bond) will be forfeited to the State of Mississippi as liquidated damages arising out of my (our) failure to execute the contract as proposed. It is understood that in case I am (we are) not awarded the work, the check will be returned as provided in the Specifications.

Bidder acknowledges receipt of and has added to and made a part of the proposal and contract documents the following addendum (addenda):

ADDENDUM NO. <u>1</u>	DATED <u>5/13/2009</u>	ADDENDUM NO. _____	DATED _____
ADDENDUM NO. _____	DATED _____	ADDENDUM NO. _____	DATED _____

Number	Description
1	Replace pages 2, 5, 8, 38, 48, 49, 72, 73, 76, 77, 79, 98, 200, 226, 227, 264, 268, 278 and insert pages 278 A - 278 AO.

TOTAL ADDENDA: 1
(Must agree with total addenda issued prior to opening of bids)

Respectfully Submitted,

DATE _____

Contractor

BY _____
Signature

TITLE _____

ADDRESS _____

CITY, STATE, ZIP _____

PHONE _____

FAX _____

E-MAIL _____

(To be filled in if a corporation)

Our corporation is chartered under the Laws of the State of _____ and the names, titles and business addresses of the executives are as follows:

_____ President	_____ Address
_____ Secretary	_____ Address
_____ Treasurer	_____ Address

The following is my (our) itemized proposal.

Revised 09/21/2005

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Lincoln County(ies)

construction of the Project, the US Army Corps of Engineers (USACE) Wetlands/Waters permit, and the Stormwater permit. Any additional permits required will be the responsibility of the Proposer.

Project services shall include but are not limited to:

- Design Services – complete development of construction plans
- Quality Control (QC) of design and quality control/testing of construction
- Construction Services – necessary to build and ensure high quality workmanship of the designed facility

The Project will include, as a minimum, the following bridges:

1. I-55 over Dickerson Creek, 0.9 miles north of the Pike County Line,
2. I-55 over Bogue Chitto Road, 5.1 miles north of the Pike County Line,
3. I-55 over Big Creek, 6.0 miles north of the Pike County Line, and

The Project may also include one or more of the following bridges bid in the order of priority provided below:

4. I-55 over Brookway Blvd., 2.2 miles north of US 84,
5. I-55 over Union Street, 4.6 miles north of US 84,
6. I-55 over Bogue Chitto River, 0.2 miles north of US 84,
7. I-55 over US 84.

The Proposers will be required to determine the maximum number of bridge locations to be widened in pairs (i.e. both the northbound and southbound bridge at each location) as described in Section 904 – NTB No. 2618-D7-1 DB for as many of the bridge locations that can be widened up to a maximum lump sum proposal price of \$10 Million.

The Commission may utilize a separate Firm to provide MDOT with Project Management Assistance.

Currently, the Project is in the environmental phase for the approval of a Categorical Exclusion (CE). As Built plans of the bridges are provided to the Proposers. The Proposer shall be responsible for completing all necessary investigations, permits and design.

The submittal of a Proposal in response to this RFP, with all required signatures, shall constitute the Proposer's agreement to enter into a contract with the Commission for the completion of the Project under the terms set forth in the Contract. The terms of the Contract are not negotiable.

The Commission values a partnering approach on projects and as such this Project will require regular Partnering Sessions.

The Proposer shall submit a proposed schedule and preliminary construction work plan demonstrating how major portions of the Work will be completed, the number of crews anticipated, shifts, length of work week only for the Work proposed to be completed. The Proposed schedule shall include a realistic date for the Final Completion of proposed Contract Work. The Proposer will be required to certify its proposed schedule and demonstrate how it is achievable and realistic for performance of the Work.

The proposed number of calendar days submitted by the Proposer shall be used as the basis for the assessment of Liquidated Damages included in the Contract.

V. PROPOSAL DEVELOPMENT

The Commission is requesting a Contract Price, Best-Value Proposal that includes a Project schedule commitment for the scope of Work included in this RFP. The price and schedule shall be guaranteed by the Proposer for a minimum of 60 days after the date identified for submission of Contract Price Proposals in Section X. Responses to the RFP shall:

- Describe the Proposal in sufficient detail that the Commission may determine its cost of bridge locations proposed, scope and intent.
- Describe any assumptions used in developing cost and schedule components of the Proposal.
- Provide a breakdown of Project costs and assumptions used in determination by work phase (design, construction, Project management, construction management, and quality control (QC)).
- Identify the proposed schedule for implementing the Project, including the total number of calendar days from Notice to Proceed necessary to complete the Project.
- Describe assurances of timely completion of the Project.
- Describe how Project quality will be achieved.

The Proposer is solely responsible for submitting a Proposal that meets the Requirements of the RFP. Assumptions that are not in compliance with the RFP will not relieve the Proposer of the Requirements of the RFP. The submitted Proposal is evaluated for general conformance with the RFP requirements for the purpose of selecting the Best-Value Proposal. While the Proposal becomes a part of the Contract documents, the Contractor's RFC plans and designs must meet all the RFP Technical Requirements.

In order that evaluation can be accomplished efficiently, the Proposal shall be prepared in separate volumes, as applicable, in the following sequence:

Volume 1 – Technical Proposal (Marked and Sealed Separately)

The document will not be longer than 50 single-sided double-spaced 8.5 inch by 11 inch pages typed on one side only, excluding appendices. Minimum font size shall be 10 point. Proposals shall use cross-referencing to reduce repetition in explaining the proposed Project.

8. **Quality Management Plan** – Proposer shall demonstrate the approach to quality management including design and construction quality management and the integration of both for this Design-Build Project. Proposer shall demonstrate controls that will be put in place to ensure overall quality of the design and how the Proposer will monitor conformance to the plans and material testing. Proposer shall provide how the team will resolve and document issues of non-conformance with the design, construction or material testing. The QC personnel responsible for quality control acceptance shall not be employees of the Contractor.
9. **Schedule Summary** – Proposer shall submit a summary schedule demonstrating how the Contractor plans to complete the Project within its prescribed schedule for completion. The summary schedule shall include dates for planned start and finish of design, procurement of major items, mobilization, foundation installation, superstructure installation, the total number of calendar days from the Notice to Proceed to Final Completion. The proposed number of calendar days for Final Completion shall be as shown on the Contractor's Schedule Certificate.
10. **Required Forms and Certifications** – The Proposer shall provide the following completed and/or executed documents:
 1. Contractor's Schedule Certificate.
 2. Legal Entity Forms.

These may be placed in an appendix and will not count against the page limitation.

Volume 2 – Contract Price Proposal (Marked and Sealed Separately as per 907.102.09)

This Contract Price Proposal shall contain the following information:

1. All pages of Section 905 including acknowledgment of addenda and bid sheets completed and signed.
2. A certified check, cashier's check or Proposer's Bid Bond payable to the State of Mississippi in the principle amount of 5% of the bid that includes the project number, executed by the Proposer and signed or countersigned by a qualified Mississippi agent or qualified nonresident agent for the Surety with Power of Attorney attached.
3. An executed Equal Opportunity Clause Certification.
4. A signed list of all Firms submitting quotes (OCR-485).
5. The Certification regarding Non-Collusion, Debarment and Suspension, etc. executed in duplicate.

The information obtained under this RFP of the successful Proposer shall become the exclusive property of the Commission without restriction or limitation on its use. The Commission shall have unrestricted authority to publish, disclose, distribute, or otherwise use in whole or in part any reports, data, or other materials prepared under this RFP by the successful Proposer. The Commission shall retain ownership of all plans, specifications, and related documents.

MISSISSIPPI DEPARTMENT OF TRANSPORTATION

SECTION 904 - NOTICE TO PROPOSERS NO. 2239 DB

CODE: (SP)

DATE: 01/06/2009

SUBJECT: Department of Labor Ruling

On December 19, 2008 the U.S. Department of Labor issued a final rule revising their regulations in 29 CFR Parts 3 and 5. This rule takes effect for all Federal funded contracts awarded after January 19, 2009.

The primary change in the rule is a provision that requires Contractors to limit the amount of personal information on the weekly payroll submissions. Personal addresses and full social security numbers may no longer be used. Contractors must use an " . . . individually identifying number for each employee (e.g., the last four digits of the employee's social security number)." Form FHWA-1273 - "Required Contract Provisions Federal-aid Construction Contracts" will eventually be revised to reflect this change.

Until the [revision](#) is made to FHWA-1273, bidders are advised to disregard any requirement in FHWA-1273 regarding the use of personal addresses and full social security numbers, such as in Section V, Paragraph 2b.

Bidders are also advised that the requirement for maintaining and submitting form FHWA-47, as referenced in FHWA-1273 Section VI, is no longer required on construction projects.

MISSISSIPPI DEPARTMENT OF TRANSPORTATION

SECTION 904 - NOTICE TO PROPOSERS NO. 2618-D7-1 DB

DATE: 3/29/2010

SUBJECT: Project Scope

PROJECT: Design-Build Widening of Bridges on I-55 in Lincoln County
Project No. IM-0055-01(097)/105877301

Work on the project shall consist of the following:

The bridges on I-55 in Lincoln County will be widened to improve the bridges to the current roadway standards. MDOT intends to maximize the number of bridges to be improved as part of this Project. The bridge locations that shall be part of this Project include:

1. I-55 over Dickerson Creek, 0.9 miles north of Pike County Line,
2. I-55 over Bogue Chitto Road, 5.1 miles north of Pike County Line,
3. I-55 over Big Creek, 6.0 miles north of Pike County Line, and

(Note: each location includes both northbound and southbound bridges)

The Project may also include the following bridges (both northbound and southbound) bid in the priority order shown below:

4. I-55 over Brookway Blvd., 2.2 miles north of US 84,
5. I-55 over Union Street, 4.6 miles north of US 84,
6. I-55 over Bogue Chitto River, 0.2 miles north of US 84,
7. I-55 over US 84.

The station limits for each of the bridge sites are as follows:

Bridge Location	Begin Station	End Station
I-55 over Dickerson Creek LT	59+25	65+95
I-55 over Dickerson Creek RT	56+15	62+85
I-55 over Bogue Chitto Road LT	301+50	308+75
I-55 over Bogue Chitto Road RT	299+10	306+40
I-55 over Big Creek LT	348+10	356+20
I-55 over Big Creek RT	345+00	353+10
I-55 over US 84 LT	728+55	737+00
I-55 over US 84 RT	726+30	734+70
I-55 over Bogue Chitto River LT	744+00	752+70
I-55 over Bogue Chitto River RT	740+70	749+40
I-55 over Brookway Blvd LT	863+55	871+75

Bridge Location	Begin Station	End Station
I-55 over Brookway Blvd RT	861+00	869+20
I-55 over Union Street LT	960+65	968+90
I-55 over Union Street RT	956+85	965+10

The Project shall include those bridges listed on the Contractor's Schedule Certificate, made a part of this Project by reference.

Work within the Project limits includes, but is not limited to:

- Removal and disposal of the existing bridge railing and deck to accomplish bridge widening.
- Bridge Widening.
- Remove existing joint armor and rehabilitate joints on existing bridges.
- Mill and inlay a minimum of the final surface course depth the full width of the travel lanes within the project limits defined above. Failed areas in the pavement shall be rehabilitated prior to inlay.
- The new shoulder shall be a minimum of 6 inches of Class 6, Group D granular material (base) and a minimum of 5.75 inches of Hot Mix Asphalt.
- Installation and maintenance of temporary erosion control.
- Install necessary embankment material.
- Install new guardrail approaching the bridge, as required by design.
- Within the Project limits and those areas disturbed by the Contractor:
 - Restripe the shoulder lines.
 - Restripe the centerline to match existing centerline spacing.
 - Install new raised pavement markers.
- Perform grassing per the Mississippi Standard Specifications for Road and Bridge Construction.

Construction of the Project will be within Mississippi Department of Transportation (MDOT) Right of Way. The Commission will secure the Categorical Exclusion for the construction of the Project, [the US Army Corps of Engineers \(USACE\) Wetlands/Waters permit, and the Stormwater permit](#). Any additional permits required will be the responsibility of the Proposer.

Project Services shall include but are not limited to:

- Design Services – complete development of construction plans and permitting
- Quality Control (QC) of design and quality control / testing of construction
- Construction Services – necessary to build and ensure high quality workmanship of the designed facility.

The Project will include as many of the above listed bridge locations that can be widened up to a maximum lump sum proposal price of \$10 Million. The Proposer is required to determine the maximum number of bridge locations to be widened in pairs (i.e. both the northbound and the southbound bridge at each location), in the order presented.

Engineer - The Chief Engineer of MDOT, acting directly or through a duly authorized representative(s).

Engineer of Record - Engineer of Record shall be a member of Contractor's design team and shall be a licensed Professional Engineer who has responsibility for a specific area of design and shall sign and seal plan sheets that have been developed under his/her direct supervision. Engineer of Record shall be responsible for addressing the Contractor's Requests for Information (RFI's) as per Section 2.2.6 of the Technical Specifications.

Final Completion Date – The date on which all Work specified in the Contract is complete, which is derived from adding the calendar days bid by the Contractor to the date of the Notice to Proceed.

Governmental Approval - Any authorization, consent, approval, action, license, lease, permit, certification, exemption, filing or registration by or with any Governmental Person.

Governmental Person - Any federal, state, local or foreign government, any political subdivision or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or entity, excluding MDOT unless the context requires otherwise.

Inspector - The Contractor's or MDOT's authorized representative assigned to make detailed inspections of Contract performance.

Laboratory - The testing laboratory of the Contractor, MDOT or any other testing laboratory which may be designated by MDOT.

MDOT duly authorized representative - Those individuals or firms with specific authority to act for and on behalf of MDOT.

Milestone - An activity that represents a significant point in time, and may be used to indicate the start or end of a series of related activities and/or Contract accomplishment. A milestone has zero original and remaining duration, and does not increase the Contract time.

Project Documents - All written instruments associated with the Project including SOQ, RFP, Proposal, Agreement, Exhibits, referenced materials, design, and all documents produced to administer the Project including, but not limited to, all correspondence, changes, RFRs, RCSR, Request for Information, Submittals, etc.

Project Management Services - All planning, monitoring, controlling and reporting for Project activities and design including but not limited to, personnel, facilities, materials, computer systems and training for management of the Project as determined adequate by MDOT.

Project Payment Schedule – See Subsection 907-108.03.1.4.1 of the Special Provisions.

Project Scope - All responsibilities and tasks included in the RFP necessary to complete the Project and satisfy all requirements in the Contract including all associated work developed from the design, minor MDOT revisions, changed conditions, and contingencies that may be necessary for the Contractor to complete The Work not mentioned or included in the RFP.

Proposal – The offer of a Proposer, on the prescribed form, to perform the Work at the price and time quoted.

Proposal Date – Is the date designated in the RFP for submission of the Proposal to MDOT.

Proposal Form – The approved form on which the Department requires Proposals to be prepared and submitted for the Work.

Proposal Guaranty – A certified check, cashier's check, or Proposal bond furnished with the Proposal to guarantee that the Proposer will enter into a Contract for the Work and furnish acceptable bond if the Contractor's Proposal is accepted.

Proposer - Includes a firm or firms, consortia, partnerships, joint ventures and other legal entity, which has been requested by the Mississippi Department of Transportation to submit a Proposal.

Review Comment Summary and Resolution (RCSR) – A written instrument to facilitate the disposition of reviewer comments of Contractor submittals.

Release for Construction - The written act of MDOT advising the Contractor it is allowed to proceed with construction, installation, manufacture or procurement according to the documents so released by MDOT, provided, however, Contractor shall none the less meet all requirements of this Contract.

Request for Information (RFI) - An RFI or information request is submitted by the Contractor to MDOT or duly appointed representative when information is needed concerning the Work. RFIs are answered by the appropriate party and returned to the Contractor with a response.

Request for Revision (RFR) - A written instrument for the Contractor to request a change to the Project scope identified in the RFP or the design developed during each Phase of the Project by the Contractor.

Resident or Project Engineer - The Engineer assigned by the Chief Engineer and bonded to the State to have the responsibility and authority for on-the-job administration.

Site – Shall mean any area within the Right-of-Way and additional areas that may designated in the Contract.

Stipend - Allowance paid for unsuccessful responsive Proposers.

Work –All design, engineering, quality control, procurement, construction, labor, supervision, testing, training and other services, equipment and materials provided or to be furnished and provided by Contractor necessary to achieve Final Acceptance of the Project in regard to which Notice To Proceed have been issued and all requirements in accordance with all the requirements of this Contract.

Working Drawings - Stress sheets, shop drawings, erection plans, falsework plans, framework plans, cofferdam plans, bending diagrams for reinforcing steel, or any other supplementary plans or similar data which the Contractor is required to submit.

Value Engineering – Proposed change to the Project Scope or design by MDOT or the Contractor that will reduce cost, increase quality and/or expedite the schedule.

907-101.03--Presumption. Delete Subsection 101.03 on page 13 and substitute the following.

907-101.03 – Blank.

The Proposer's Proposal must be signed with ink by the individual, by one or more members of the partnership, by one or more members or officers of each firm representing a joint venture, or by one or more officers of a corporation; or by an agent of the Contractor legally qualified to bind the Contractor and acceptable to the State. If the Proposal is made by an individual, the individual's name and address must be shown; by a partnership, the name and address of each partnership member must be shown; as a joint venture, the name and address of each member or officer of the firms represented by the joint venture must be shown; by a corporation, the name of the corporation and the business address of its corporate officials must be shown.

The address stated on the Proposal shall be the Proposer's permanent address until changed by written notice to the Executive Director. All notices provided for in the Contract shall be considered as delivered to the Contractor when mailed or delivered to such address.

907-102.07--Irregular Proposals. Proposals will be considered irregular and may be rejected for any of the following reasons:

- (a) If the Proposal is on a form other than that furnished by the Department, or if the form is altered or any part thereof is detached, except as allowed in Subsection 907-102.06.
- (b) If there are unauthorized additions, conditional or alternate Proposals or irregularities of any kind which may tend to make the Proposal incomplete, indefinite, or ambiguous as to its meaning.
- (c) If the Proposer adds any provisions reserving the right to accept or reject an award, or to enter into a Contract pursuant to an award.
- (d) If the Proposal, does not contain acknowledgement of receipt and addition to the Proposal and Contract documents of all addenda issued prior to opening of Proposals.
- (e) Failure to execute required affidavits, certificates, etc., and furnish Proposal guaranty.
- (f) The Mississippi Transportation Commission reserves the right to reject any or all Proposals, to waive technicalities or irregularities, or to advertise for new Proposals, and the decision of the Commission to reject any Proposal shall not be cause for any liability or damage against the Commission, the Department, any of its officers, duly appointed representatives or employees.

907-102.08--Proposal Guaranty. No Volume 2 Proposal will be considered unless accompanied by certified check, cashier's check or bond, made payable to the State of Mississippi, in an amount of not less than five percent of the total amount of the Proposal offered. Proposal bond shall not be conditioned in any way to modify the minimum five percent (5%) required. Proposals that fail to include a Proposal Guaranty shall be deemed nonresponsive and will be rejected by MDOT. The guaranty shall be evidence of good faith that, if awarded the Contract, the Proposer will execute the Contract and give Contract bond as stipulated in Subsection 907- 103.05 and as required by law. The Proposal Guaranty amount should not include the dollar amount determined for the Contract Time (Part B).

If a bond is offered as guaranty, the bond must be on a form approved by the Executive Director, made by a Surety acceptable to the Executive Director and signed or countersigned by a qualified Mississippi agent or qualified nonresident agent and the Proposer.

907-102.08.1--Bonding. The successful Proposer shall provide MDOT with the following bond within ten (10) calendar days of being awarded the Project:

- (a) A Performance Bond, or bonds in a sum equal to the full amount of the Contract. In the event of award of a joint Proposal, each individual, partnership, firm or corporation shall assume jointly the full obligations under the Contract and Contract bond. The form of the bond(s) shall be that provided by or acceptable to the Department. The bond(s) shall be negotiated for, procured from and the premium paid to a qualified Mississippi agent or qualified nonresident agent of the Surety. The bond shall be signed or countersigned by a Mississippi agent or qualified nonresident agent and also bear the signature of an “attorney-in-fact” of the surety. Reference is made to Section 31-5-51 *et seq* of the Mississippi Code of 1972, Annotated, and other State statutes applicable thereto.

Bond(s) must be issued by a Surety with the Best’s rating of at least “A” or better and Financial Size Category of VIII or better by A.M. Best Co. The Surety shall be registered with the Mississippi State Insurance Commissioner.

907-102.09--Delivery of Proposals. Unless otherwise specified, Volume 2 Proposals shall be submitted sealed in a special envelope furnished by the Department. The blank spaces on the envelope shall be filled in correctly to clearly indicate its contents. When an envelope other than the special one furnished by the Department is used, it shall be of the same general size and shape and be similarly marked to clearly indicate its contents. Proposal Forms are nontransferable and no name or names of interested parties may be shown other than those to whom the Proposal was issued. When sent by mail, the sealed Proposals shall be mailed to the Department at the address and in care of the official in whose office the Proposals are to be received. All Proposals shall be submitted prior to the time and place specified in the Request for Proposals (RFP). Proposals received after the time set forth in the RFP will be returned to the Proposer unopened.

907-102.10--Blank

Delete Subsections 102.11 and 102.12 on pages 20 and 21 and substitute the following:

907-102.11--Blank

907-102.12--Blank

Delete Subsection 102.13 on page 21 and substitute the following:

907-102.13--Disqualification of Proposers. In addition to those matters set forth in Section 102.07 regarding Irregular Proposals, either of the following reasons may be considered as being sufficient for the disqualification of a Proposer and the rejection of the Proposer’s submitted Proposal or Proposals:

- (a) More than one Proposal for the same work from an individual, partnership, firm or corporation under the same or different name(s).
- (b) Evidence of collusion among Proposers. Participants in such collusion will receive no recognition as Proposers for any future work of the Department until reinstated as a qualified Proposer.

negotiated for, procured from and the premium paid to a qualified Mississippi agent or qualified nonresident agent of the Surety. The bond shall be signed or countersigned by a Mississippi agent or qualified nonresident agent and also bear the signature of an "attorney-in-fact" of the Surety. Reference is made to Section 31-5-51 *et seq* of the Mississippi Code of 1972, Annotated, and other State statutes applicable thereto.

907-103.06—Escrow Proposal Documents. The purpose of this specification is to preserve the Proposer's Proposal documents for the use by MDOT in the resolution of any claim or dispute between MDOT and the Contractor either during or after construction. Within two (2) business days following submittal of the Volume 2 Proposal documents, the Contractor shall have delivered into escrow the original of all documents used in preparation of its Volume 2 Proposal for the Project (the "Escrowed Proposal Documents" or "EPD")

Upon execution of the Contract, the unsuccessful Proposers will be notified by the Commission in writing the escrowing of Proposal documents will no longer be required.

The EPD of the successful Proposer will be held in escrow until all of the following have occurred: (a) 180 days have elapsed from the date of the final Contract voucher certification, (b) all disputes regarding this Contract have been settled, and (c) final payment on this Contract has been made by MDOT and accepted by the Contractor.

The EPD shall be available during business hours for joint review by representatives of the Contractor, FHWA and MDOT in connection with the resolution of disputes. The EPD are, and shall always remain, the property of the Contractor, subject to MDOT's right to review the EPD as provided herein. Copies of the EPD shall be provided to the courts of the State of Mississippi and other dispute resolvers upon request of MDOT. The Contractor shall have the right to seek a protective order governing the disclosure of the EPD to parties other than MDOT. The Contractor represents and warrants that the EPD delivered into escrow prior to execution hereof constitute all of the information used in preparation of its Proposal and agrees that no other Proposal preparation information will be considered in resolving disputes or claims related thereto, including in any judicial proceeding to resolve such disputes or claims. The Contractor also agrees that the EPD are not part of this Contract and that nothing in the EPD shall change or modify this Contract.

The Contractor represents and warrants that:

- (a) the EPD clearly itemize the estimated costs of performing the Work required by the Contract provisions, all work is separated into sub-items as required to present a complete and detailed estimate of all costs, crews, equipment, quantities, and rates of production are detailed;
- (b) estimates of costs are divided into Contractor's usual cost categories such as direct labor, repair labor, equipment ownership and operation, expendable materials, permanent materials and subcontract costs as appropriate, plant and equipment and indirect costs are detailed in the Contractor's usual format, and the Contractor's allocation of plant equipment, indirect costs, contingencies, markup and other items such as overhead and profit to each direct cost item shall be clearly identified;
- (c) the EPD include all assumptions, quantity takeoffs, rates of production and progress calculations, quotes for Subcontractors and suppliers, memoranda, narratives and all other information used by the Contractor to arrive at the Contract Price.

The Contractor shall maintain in position only those signs that are appropriate for existing conditions and those that are not or have served their purpose shall be removed or covered as approved by the Construction Quality Control Manager. Sign coverings shall be of such material and so placed such that the information contained thereon will not be legible during day or night. The Contractor shall not allow vegetation, construction materials, equipment, etc. to obscure an applicable traffic control device(s).

No change in posted regulatory speed signs may be made without the written authority of MDOT. However, advisory speed plates conforming to the current MUTCD may be used in conjunction with the other standard warning signs provided each posted advisory speed is appropriate for the individual hazard created by construction. All proposed changes in regulatory speeds shall be submitted through the Engineer.

907-107.14.2--Liability Insurance. Delete in toto Subsection 107.14.2 beginning on page 60 and substitute:

907-107.14.2.1--General. The Contractor shall carry Contractor's liability, including subcontractors and contractual, with limits not less than: \$500,000 each occurrence; \$1,000,000 aggregate; automobile liability - \$500,000 combined single limit - each accident; Workers' Compensation and Employers' Liability - Statutory & \$100,000 each accident; \$100,000 each employee; \$500,000 policy limit. Each policy shall be signed or countersigned by a Mississippi Agent or qualified nonresident agent of the insurance company.

The Contractor shall have certificates furnished to the Department from the insurance companies providing the required coverage. The certificates shall be on the form furnished by the Department and will show the types and limits of coverage.

907-107.14.2.2--Railroad Protective. The following provisions are applicable to all work performed under a contract on, over or under the rights-of-way of each railroad shown on the plans.

The Contractor shall assume all liability for any and all damages to work, employees, servants, equipment and materials caused by railroad traffic.

Prior to starting any work on railroad property, the Contractor shall furnish satisfactory evidence to the Department that insurance of the forms and amounts set out herein in paragraphs (a) and (b) has been obtained. Also, the Contractor shall furnish similar evidence to the Railroad Company that insurance has been obtained in accordance with the Standard Provisions for General Liability Policies and the Railroad Protective Liability Form as published in the Code of Federal Regulations, 23 CFR 646, Subpart A. Evidence to the Railroad Company shall be in the form of a Certificate of Insurance for coverages required in paragraph (b), and the original policy of the Railroad Protective Liability Insurance for coverage required in paragraph (a).

All insurance herein specified shall be carried until the contract is satisfactorily complete as evidenced by a release of maintenance from the Department.

The Railroad Company shall be given at least 30 days notice prior to cancellation of the Railroad Protective Liability Insurance policy.

For work within the limits set out in Subsection 107.18 and this subsection, the Contractor shall provide insurance for bodily injury liability, property damage liability and physical damage to property with coverages and limits no less than shown in paragraphs (a) and (b). Bodily injury shall mean bodily

April 21, 2010

Project No. IM-0055-01(097)/105877301

**SECTION 2.0 - DESIGN AND
CONSTRUCTION RESPONSIBILITIES**

either stamp the plans and specifications “Released for Construction” and return one (1) full size reproducible set to the Contractor or return comments within seven (7) days. Once plans/specifications are Released for Construction, the Contractor shall provide twenty (20) copies of half scale sets of plans to MDOT within seven (7) days.

The Contractor shall submit a certification that the submittal complies with the Design Quality Control Plan.

MDOT’s stamping of drawings as “Released for Construction” does not substantiate the adequacy or acceptability of the design or relieve the Contractor of its obligation to comply with all provisions of the Contract.

2.2.6 Request for Information (RFI) Process.

Any questions concerning clarification of the plans or specifications, substitutions or alternate concepts shall be submitted to the Engineer of Record for response with a copy to the MDOT Project Engineer. The Engineer of Record is responsible for providing the response to the Contractor. If the substitution or alternate concept is not acceptable to MDOT, then MDOT is responsible for providing a comment to the Engineer of Record and Contractor [within 3 working days of receipt of the completed RFI \(hard copy\) and associated documents \(if any\). MDOT will provide either the response or a schedule of when a response will be completed.](#) If MDOT does not have an objection, and the Engineer of Record provides a clarification to the RFI then the Engineer of Record shall provide a response to the RFI and return the completed RFI to the Contractor. The Contractor will then submit the RFI to MDOT.

If the Engineer of Record agrees to a substitution or alternate concept then the RFI becomes a Request for Revision and follows the process detailed below.

The RFI shall use the attached form or similar document.

2.2.7 Request for Revision (RFR) Process.

Any revisions to the plans and specifications desired by Contractor or to correct deficiencies in the construction documents after the Submittal has been Released for Construction will require a Request for Revision (RFR). The Contractor shall submit a Request for Revision to MDOT. These shall be resubmitted to MDOT for review and re-release according to Section 2.2.5.

All Requests for Revision shall include the following: justification narrative, copies of pertinent correspondence, jurisdictional sign-off as necessary, any additional governmental approvals, index of impacted agencies with review comments and/or acknowledgements, preliminary drawings, engineering calculations and specifications, as necessary.

MDOT may accept or reject any Request for Revision. If MDOT accepts an RFR, the Contractor shall finalize all pertinent documentation, including final design drawings and specifications for final review and Release for Construction.

In no event shall the RFR process be used to change the Contract scope.

SECTION 10.0 – GEOTECHNICAL

10.4.5 *Laboratory Testing*

The Contractor shall perform laboratory soils tests of sufficient numbers and type to classify and ascertain the shear strength, conditions of stability, and consolidation characteristics of the material encountered.

10.4.6 *Miscellaneous Structures*

Miscellaneous structures shall have a minimum of one soil test boring performed per foundation location. All soil borings performed by the Contractor shall extend at least 10 feet below the anticipated tip elevation of the foundation.

10.4.7 *Geotechnical Report*

The Contractor shall prepare a preliminary and final geotechnical report for all bridges, retaining walls, roadway subgrades and embankments, concrete culverts and any other structures constructed for this Project, including the Initial Phase and any subsequent Phase. The preliminary geotechnical report shall provide the preliminary recommendations for the design of the selected foundation types, reproductions of the field boring logs and a generalized soil profile along the alignment. The final geotechnical report shall summarize subsurface soils, foundation design recommendations, laboratory testing results and provide a reproduction of the field boring logs and a generalized soil profile containing the location of all soil borings. In addition, the report shall indicate any special treatments of subgrades to be performed before paving. Each report shall be submitted to MDOT along with the final or preliminary plan submittal. The review of the report will be performed in accordance with the structure submittal plan review process. In addition, after construction of the foundations is complete, the Contractor shall provide a supplement to the report containing the actual field conditions encountered and as-built foundation data and information.

10.5 Deep Foundation Verification

The Contractor shall verify the capacity of piles to substantiate Factor of Safety of Table 10.1-1. The Contractor shall provide positive demonstration that each pile has the required bearing capacity. At a minimum one abutment pile and one interior pile **at each bridge** shall be tested to determine the capacity and to set the driving criteria for the remaining piles. The first pile driven at an abutment or interior bent shall be the verification pile. The Contractor shall submit the pile verification results within two (2) days after the completed driving of the verification test pile.

When drilled shafts are used, the Contractor shall perform an out of position trial shaft to prove the proposed construction methodology of the drilled shaft and the Contractor's proposed equipment will work for the project geotechnical conditions. Additional trial shafts are required whenever the Contractor changes the drilled shaft construction methodology or equipment. Additional trial shafts are recommended when, in the opinion of the Contractor's geotechnical engineer, there is sufficient variability in the project geotechnical conditions.

SECTION 10.0 – GEOTECHNICAL

At each pair of bridges which will utilizes drilled shafts, a static load test is required to verify the capacity of the shafts and substantiate the Factor of Safety as specified in Table 10.1-1. The test shaft shall be constructed by the shaft construction technique proven in the trial shaft construction. Load testing of drilled shafts will be completed prior to the construction of any production shafts. Test shafts shall be placed out of position so that they will not interfere with placement of production shafts. Productions shafts may not be used as test shafts. The Contractor shall provide six (6) copies of the final load test report to the Engineer within two (2) days of final load testing.

10.6 Deliverables

At a minimum, the Contractor shall submit the following to MDOT for review and comment:

Deliverable	Review and Comment	Schedule	Reference Section
Geotechnical Planning Report		Thirty (30) days after Notice to Proceed	10.3
Preliminary Geotechnical Report		Submit with Final Design Documents	10.4.7
Verification Tests		Two (2) days after pile driving	10.5
Geotechnical Report		30 days after Completion of Construction	10.4.7

I. CONTRACT DOCUMENTS

The Contract shall be composed of all items (listed A through M) below, and any amendments thereto. Each of these documents below are an essential part of the Contract. The documents are intended to be complimentary and are intended to be read as a complete Contract. In case of conflict, ambiguity or inconsistency the order of precedence, from highest to lowest, of the Contract documents shall be:

- A. Section 902
- B. Exhibits to Section 902
 - Exhibit 1 – As-Built Plans of Project features prior to Contract, by MDOT
 - Exhibit 2 – Environmental Document (Categorical Exclusion) [and Permits](#)
 - Exhibit 3 – Typical Existing Bridge Joint Rehabilitation
 - Exhibit 4 – Erosion Control Standards
- C. Section 904
 - Supplements to Notice to Proposers
 - Notice to Proposers
- D. Section 905
- E. Section 906
 - Supplement to Form FHWA-1273
 - Minimum Hourly Wage Rates
 - Federal-Aid Construction Contracts (Form FHWA-1273)
 - Notice of Requirements for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246)
- F. Section 907
 - Supplements to Special Provisions
 - Special Provisions
- G. Contractor's Proposal – Contractor's Technical Proposal – Volume 1 – (Only those items that are a higher standard than the Technical Requirements.)
- H. Technical Requirements for Design and Construction
- I. Final Design Documents (provided by Contractor)
- J. Section 903
 - Contract Bond
- K. Contractors Proposal Volume 1 (Except those items that are a higher standard than the Technical Requirements.)
- L. Request for Proposals and Addenda, if any
- M. Contractor's Statement of Qualifications

II. PROJECT SCOPE

- A. Project Scope of Work

Contractor shall furnish all services, labor, materials, equipment, supplies, tools, transportation, and coordination required to perform all preliminary and final engineering, surveying, geotechnical services, scheduling, permitting, procurement, construction, quality control, material testing, traffic control, and any other services necessary to perform the Project.

The Contractor's obligation to indemnify, defend, and pay for the defense, or at the Commission's option, to participate and associate with the Commission in the defense and trial or arbitration of any damage claim, lien or suit and related settlement negotiations shall be initiated by the Commission's notice of claim for indemnification to the Contractor. The Contractor's evaluation of liability, or its inability to evaluate liability, shall not excuse Contractor's duty to defend. Only an adjudication or judgment after the highest appeal is exhausted specifically finding the Commission entirely responsible shall excuse performance of this provision by the Contractor. In such case, the Commission shall pay all costs and fees related to this obligation and its enforcement. Should there be a finding of dual or multiple liability, costs and fees shall be apportioned accordingly.

In conjunction herewith, the Commission agrees to notify the Contractor as soon as practicable after receipt or notice of any claim involving Contractor. These indemnities shall not be limited by reason of the listing of any insurance coverage or warranties elsewhere herein.

VII. RECORD RETENTION

The Contractor shall maintain all documents for a period of three (3) years after Payment of Final Voucher.

During the three (3) year retention period, the Commission, the FHWA or duly authorized representatives thereof will be granted access to those documents upon reasonable notice. At any time during the period, the Commission will have the option of taking custody of the documents. The Contractor shall obtain a written release from MDOT prior to destroying the records after the three (3) year retention period.

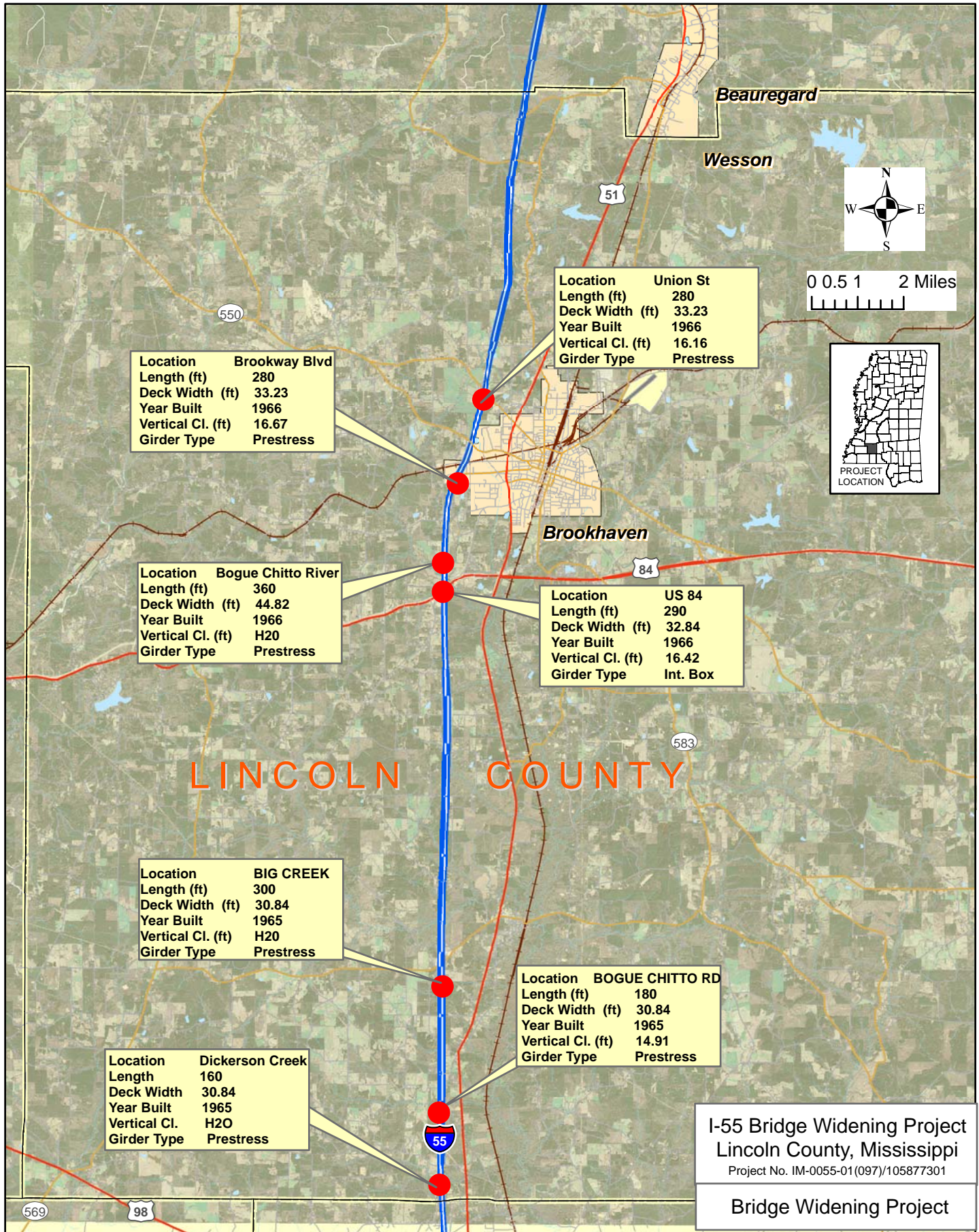
VIII. OWNERSHIP OF DOCUMENTS

Drawings, specifications, test data, inspection reports, QC documents, daily diaries, record drawings, shop drawings, engineering reports, survey control data, safety records and any other documents, including those in electronic form, prepared by Contractor or Contractor's consultants for the Project are "Project Documents". MDOT shall be the owner of the Project Documents. Upon the Effective Date of this Contract, MDOT grants Contractor and Contractor's consultants permission to reproduce and use the Project Documents for purposes of using, maintaining, upgrading, or adding to the Project. The Contractor shall provide hard copies and electronic copies to MDOT before Final Acceptance.

IX. RELATIONSHIP OF THE PARTIES

The relationship of the Contractor to the Commission is that of an independent contractor, and said Contractor, in accordance with its status as an independent contractor, covenants and agrees that it will conduct itself consistent with such status, that it will neither hold itself out as, nor claim to be, an officer or employee of the Commission by reason hereof. The Contractor will not by reason hereof, [make](#) any claim, demand or application or for any right or privilege applicable to an officer or employee of the Commission, including but not limited to workers' compensation coverage, unemployment insurance benefits, social security coverage, retirement membership or credit, or any form of tax withholding whatsoever.

The Commission executes all directives and orders through the Mississippi Department of Transportation. All notices, communications and correspondence between the Commission and the Contractor shall be directed to the Project Director and Commission designated agents shown in Section XI.





DEPARTMENT OF THE ARMY

VICKSBURG DISTRICT, CORPS OF ENGINEERS

4155 CLAY STREET

VICKSBURG, MISSISSIPPI 39183-3435

REPLY TO
ATTENTION OF:

May 6, 2010

Operations Division

SUBJECT: Concurrence of Minimal Adverse Impacts on the
Environment for Bridge Replacements along I-55 in Lincoln County,
Mississippi

Mr. Blythe W. Green
Environmental Division
Mississippi Department
of Transportation
Post Office Box 1850
Jackson, Mississippi 39215-1850

Dear Mr. Green:

Based upon the information furnished, we have determined your proposed State Project No. IM-0055-01(097), for the replacement of several bridges along I-55 in Lincoln County, Mississippi (enclosure 1), will be authorized by Nationwide Permit No. 23, as specified in the March 12, 2007, Federal Register, Issuance of Nationwide Permits; Notice (72 FR 11092-11198), provided the activity complies with the Nationwide Permit Special Conditions (enclosure 2), the Nationwide Permit General Conditions (enclosure 3), and the Regional Conditions (enclosure 4). It is your responsibility to read and become familiar with the enclosed conditions in order for you to ensure that the activity authorized herein complies with the Nationwide Permits.

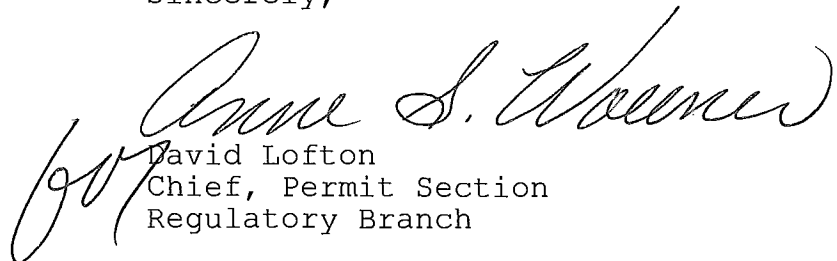
This verification is valid until the Nationwide Permit is modified, reissued, or revoked. All of the existing Nationwide Permits are scheduled to be modified, reissued, or revoked prior to March 18, 2012. It is incumbent upon you to remain informed of changes to the Nationwide Permits. We will issue a public notice when the Nationwide Permits are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant Nationwide Permit is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the Nationwide Permit to complete the activity under the present terms and conditions of this Nationwide Permit. Upon completion of the activity authorized by this Nationwide Permit, please fill out the enclosed certification of compliance (enclosure 5) and return it to our office.

This authorization was based upon a preliminary determination that there may be jurisdictional areas on the property subject to regulation pursuant to Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act. An appeals form has been enclosed for your review (enclosure 6).

The Vicksburg District Regulatory Branch is committed to providing quality and timely service to our customers. In an effort to improve customer service, please take a moment to complete the Customer Service Survey found on our web site at <http://per2.nwp.usace.army.mil/survey.html>. If it is more convenient for you, please complete and return the enclosed postage-paid post card (enclosure 7).

Thank you for advising us of your plans. If you change your plans for the proposed work or if the proposed work does not comply with the conditions of the Nationwide Permit, please contact Mr. Anthony Lobred, telephone (601) 631-5470, fax (601) 631-5459, or e-mail address: regulatory@usace.army.mil. In any future correspondence concerning this project, please refer to Identification No. MVK-2010-763.

Sincerely,


David Lofton
Chief, Permit Section
Regulatory Branch

Enclosures

DRM→ARL

Melinda L. McGrath
Deputy Executive Director/
Chief Engineer

Brenda Znachko
Deputy Executive Director/
Administration



Larry L. "Butch" Brown
Executive Director

Steven K. Edwards
Director
Office of Intermodal Planning

Willie Huff
Director
Office of Enforcement

P. O. Box 1850 • Jackson, Mississippi 39215-1850 • Telephone (601) 359-7001 • FAX (601) 359-7110 • GoMDOT.com

May 3, 2010

Mr. Anthony R. Lobred
U.S. Army Corps of Engineers
Vicksburg District, Regulatory Branch
4155 Clay Street
Vicksburg, Mississippi 39183-3435

SUBJECT: Project No: IM-0055-01(097); 105877/301000 CON

I-55 Bridge Widening – District 7 (Design/Build)
Lincoln County

Dear Mr. Lobred:

With this letter, we are providing you with a Pre-Construction Notification (PCN) for the widening of several bridges along I-55 in Lincoln. Attached, please find a signed ENV-160 for this CE project in addition to the wetland/stream survey with associated maps and photos. There are no wetland impacts within the fill limits of the proposed. This includes any fill necessary on the approaches to the bridge widening locations. There are, however, a several bents that will be driven into the streambed at a few stream crossings which will be needed to provide vertical support to the bridge extensions.

Please note that this is a high priority project and is scheduled for advertising on 5/21/2010. It is with this urgency that we are requesting your approval to proceed with this activity as soon as possible.

Should you have any questions or need further information, please contact Mr. Blythe Green at (601) 359-9815.

Sincerely,

Kim D. Thurman
Environmental Division Administrator

KDT:BWG:tbs

Attachments

Environmental & Design PROJECTS District 7 MOU CL 165477 0-5 - Lincoln - Bridges W and S COE CE Transmittal for Corps of Engineers

278 C

Addendum #1

MVK-2010-763

(E-2821)

I-55 Bridge Widening

IM-0055-01(097)

105877/301000

Lincoln County 4/28/2010

ENV-160
Rev. 10/09

MISSISSIPPI DEPARTMENT OF TRANSPORTATION ENVIRONMENTAL DIVISION ENVIRONMENTAL CLASS OF ACTION DETERMINATION

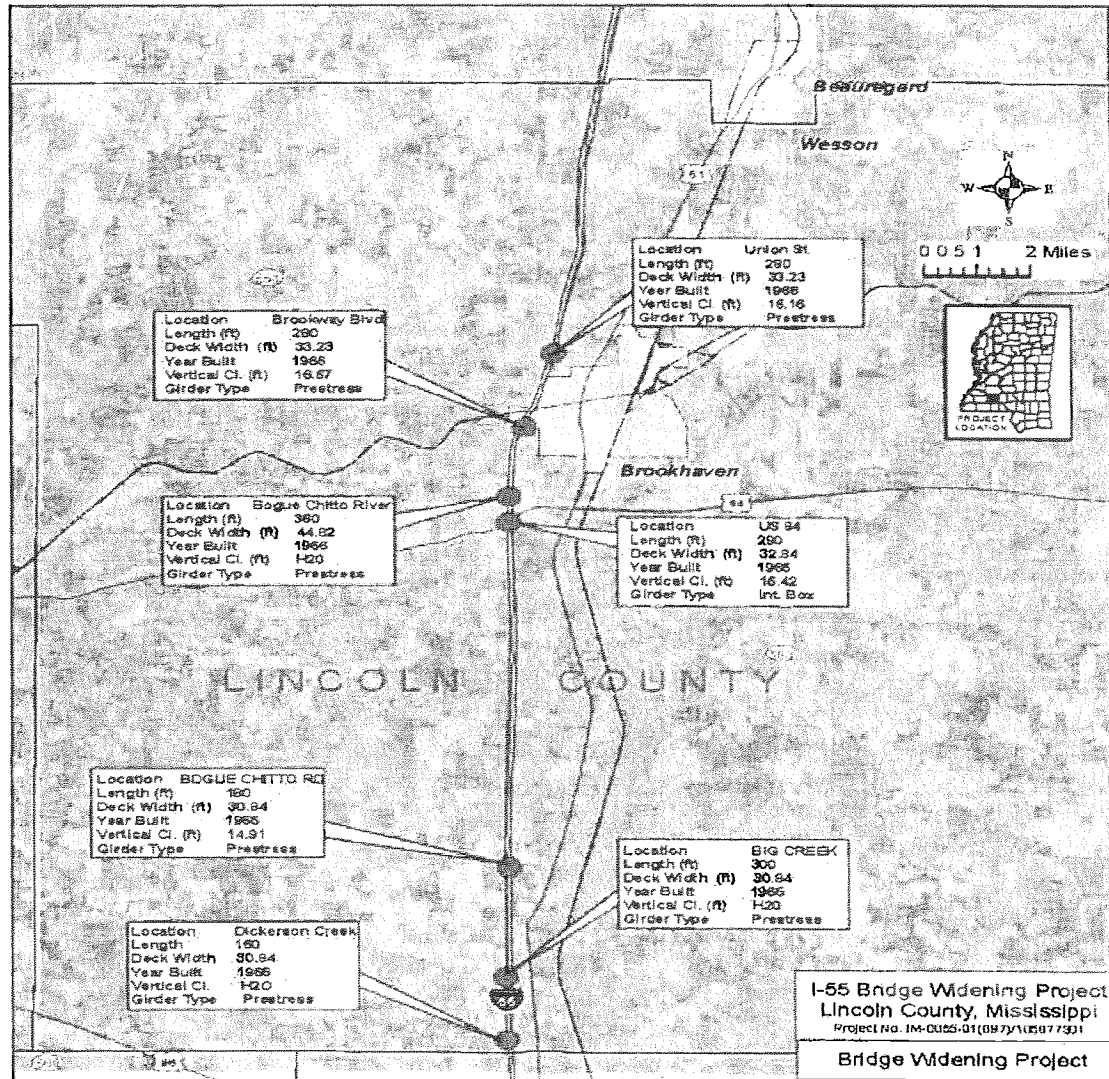
DISTRICT NO: 7		F.A. NO: 0055		7. APPROVED BY: DISTRICT ENGINEER		DATE
PROJECT NO: IM-0055-01(097)		HIGHWAY NO: 55		[Signature]		4/28/10
SECTION NO: 01		COUNTY: Lincoln		PLANNING ENGINEER		DATE
1. PROJECT TERMINI: Interstate 55 between the Pike-Lincoln County Line and the Pike-Copiah County Line.				[Signature]		4/28/10
(A.) EXISTING CONDITIONS: Interstate 55 is a hurricane evacuation route in District 7. Some of the existing bridges along Interstate 55 in Lincoln County are functionally obsolete and do not meet the minimum standards for bridge width.				ROADWAY DESIGN ENGINEER		DATE
(B.) PROPOSED IMPROVEMENTS: To increase the width of the existing bridges on this hurricane evacuation route.				[Signature]		4/28/10
(C.) PRELIMINARY PURPOSE & NEED: Widon the existing bridges to current standards on Interstate 55 in Lincoln.				ENVIRONMENTAL ENGINEER / ADMINISTRATOR		DATE
(D.) NEW ROW REQUIRED: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				[Signature]		4/28/10
2. ENVIRONMENTAL CONSEQUENCES EVALUATION (CHECK ONE)				8. FHWA CONCURRENCE: FHWA DIVISION ADMINISTRATOR		DATE
				[Signature]		4/28/10
				COMMENTS IDENTIFYING ISSUES WHICH MAKES IMPACT SIGNIFICANT OR MINIMAL.		
A. LAND USE IMPACTS				SIG.		NONE
B. FARMLAND IMPACTS						X
C. SOCIAL IMPACTS						X
D. RELOCATION IMPACTS						X
E. ECONOMIC IMPACTS						X
F. JOINT DEVELOPMENT						X
G. CONSIDERATIONS RELATING TO PEDESTRIANS & BICYCLISTS						X
H. AIR QUALITY IMPACTS						X
I. NOISE IMPACTS				X		During Construction
J. WATER QUALITY IMPACTS						X
K. PERMITS						X
L. WETLAND/STREAM IMPACTS				X		Minimal Wetlands Covered under Nationwide #28
M. WATER BODY MODIFICATION & WILDLIFE IMPACTS						X
N. FLOODPLAIN IMPACTS						X
O. WILD & SCENIC RIVERS						X
P. COASTAL BARRIERS						X
Q. COASTAL ZONE IMPACTS						X
R. THREATENED OR ENDANGERED SPECIES						X
S. HISTORIC & ARCHAEOLOGICAL PRESERVATION / 4(f) LANDS						X
T. HAZARDOUS WASTE SITES						X
U. VISUAL IMPACTS				X		During Construction
V. ENERGY						X
W. CONSTRUCTION IMPACTS						X
3. PUBLIC INVOLVEMENT RECOMMENDATIONS: NONE						
4. ACTION REQUIRED:						
CATEGORICAL EXCLUSION <input checked="" type="checkbox"/> 10% CONSULTATION <input type="checkbox"/> ENDANGERED SPECIES ASSESSMENT <input type="checkbox"/>						
EAFONSI <input type="checkbox"/> EIS <input type="checkbox"/> NQINE STUDY <input type="checkbox"/> SHPO LETTER <input type="checkbox"/> 4 (D) STATEMENT <input type="checkbox"/>						
CLASS DETERMINATION: CATEGORICAL EXCLUSION						
5. WETLANDS/STREAMS FINDING (CEX ONLY): Minimal Wetlands Covered under Nationwide #28						
6. OTHER REMARKS: PMS NO. 105877/301000.						

I-55 Bridge Widening

IM-0055-01(097)

105877/301000

Lincoln County 4/28/2010

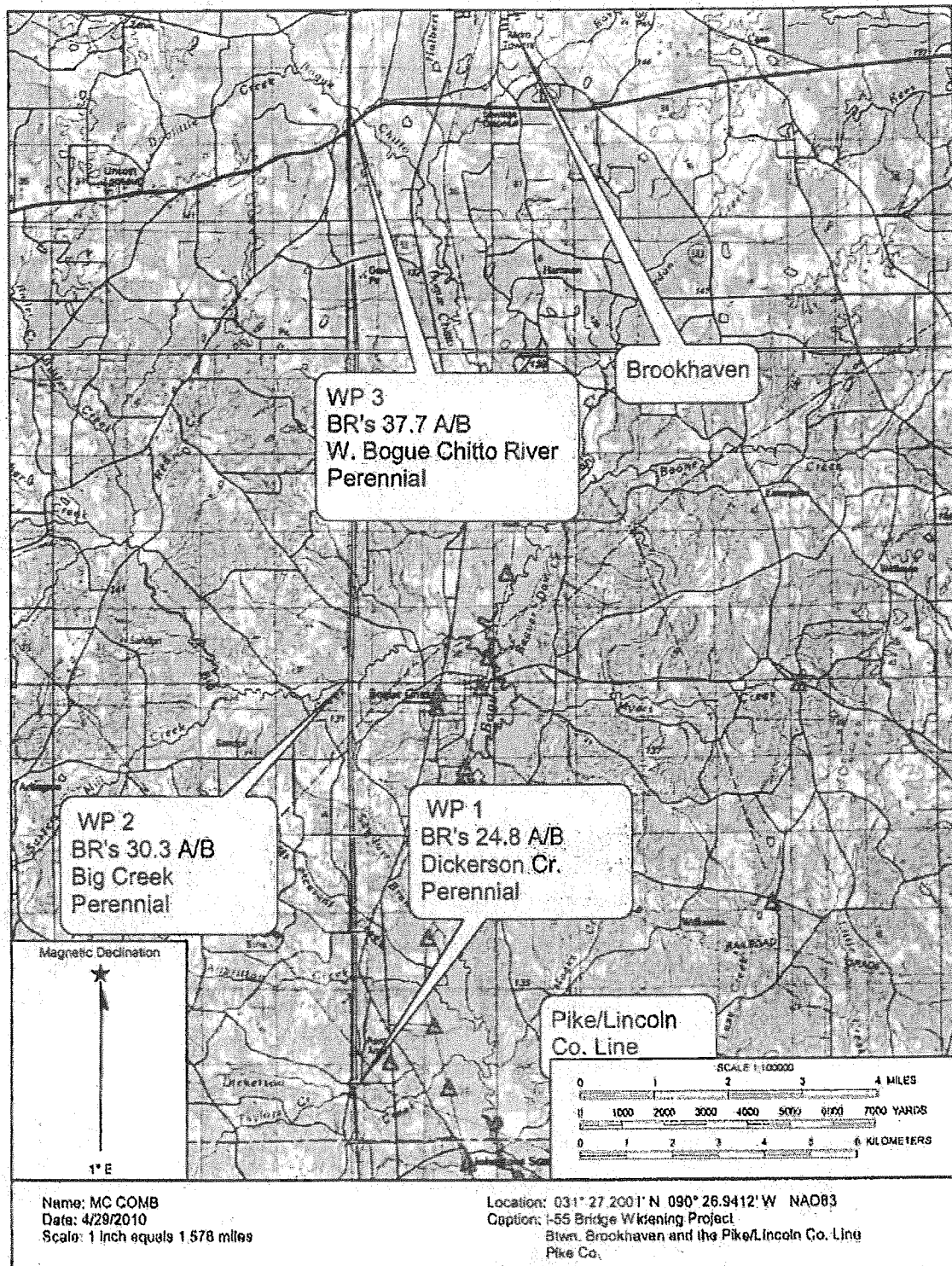


I-55 Bridge Widening

IM-0055-01(097)

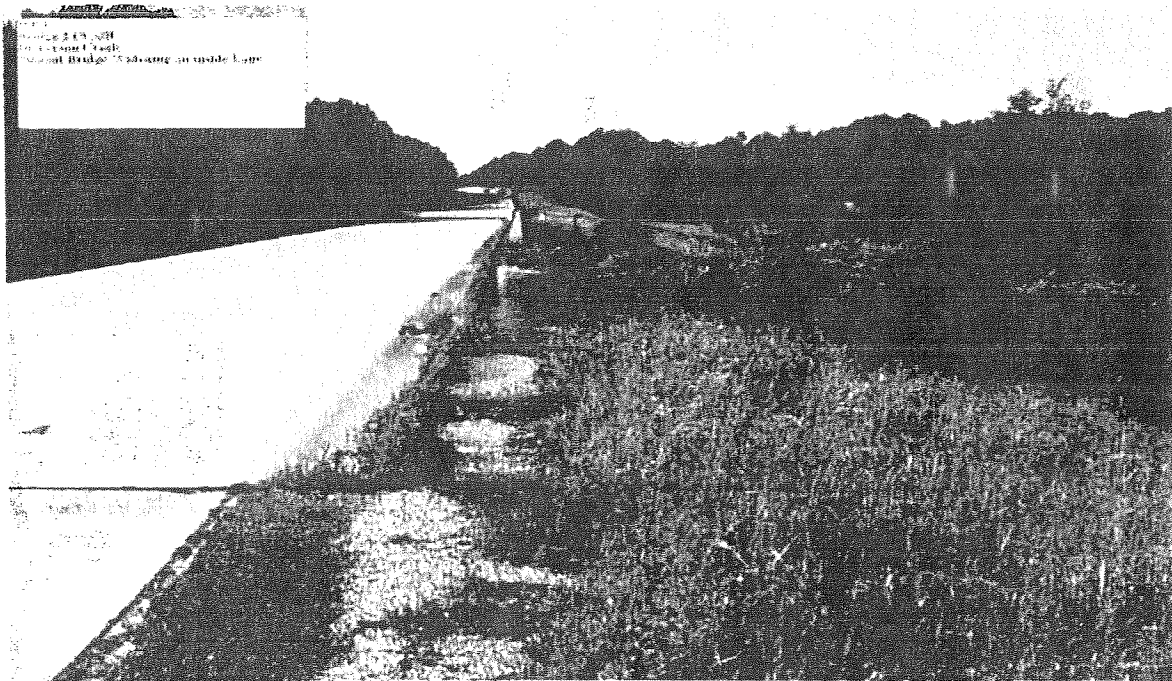
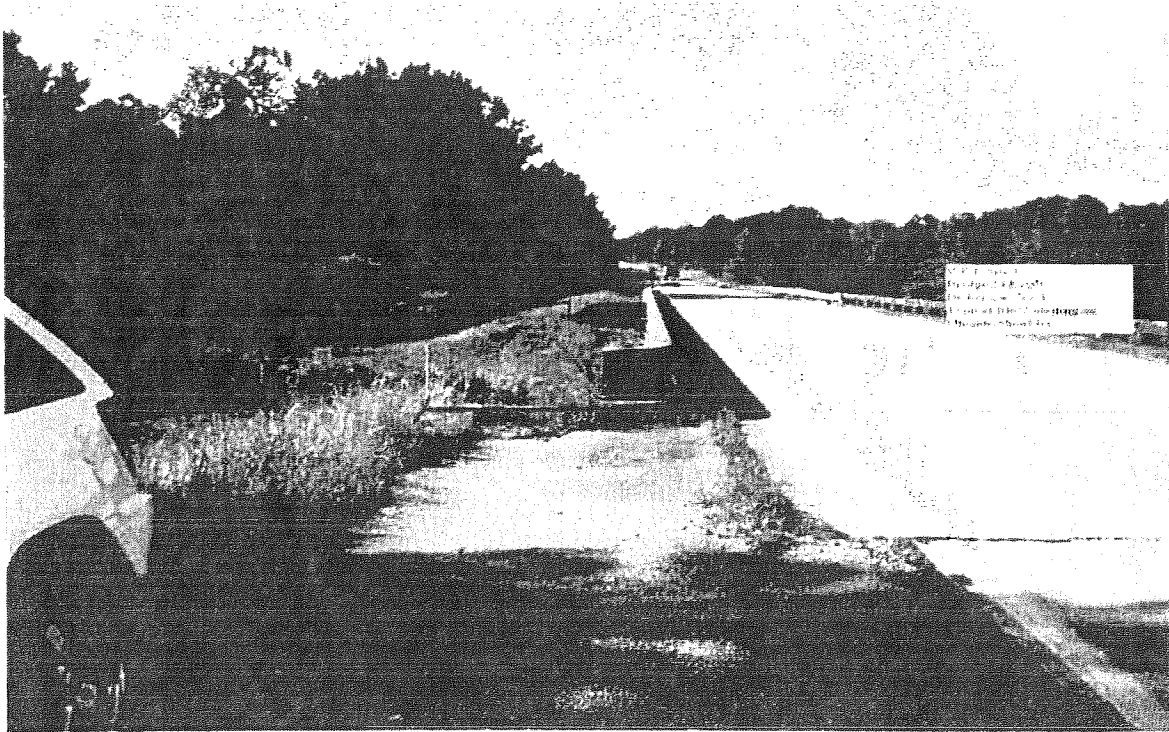
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Lincoln County 4/28/2010



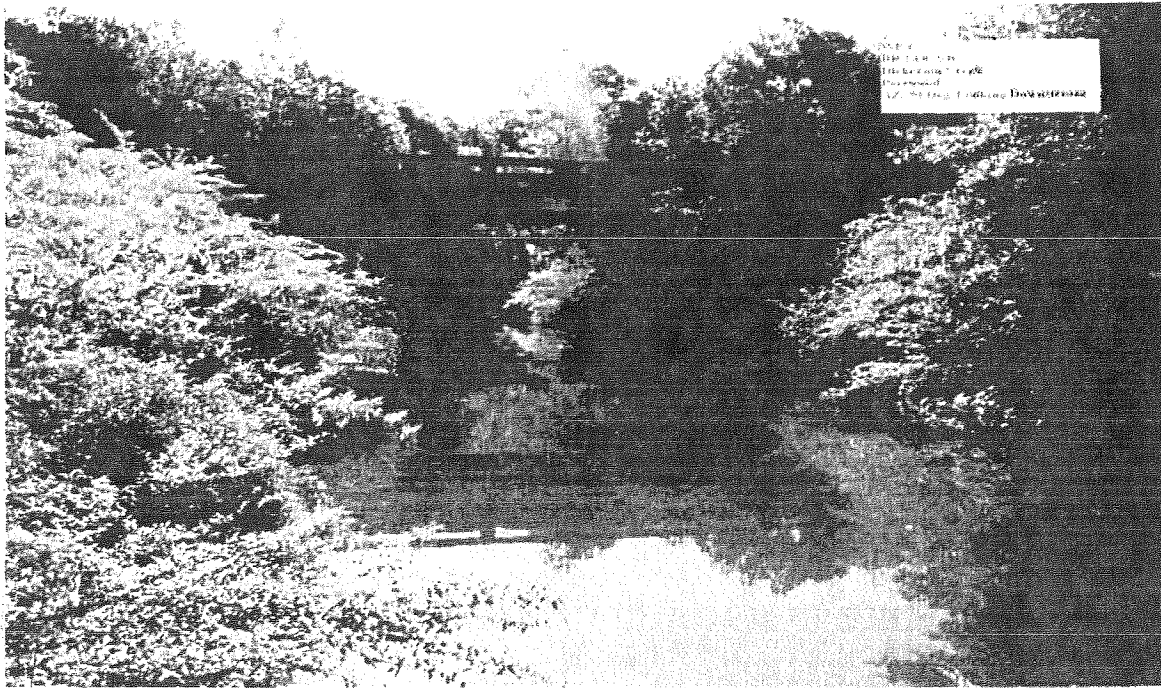
I-55 Bridge Widening
IM-0055-01(097)
105877/301000

Lincoln County 4/28/2010



I-55 Bridge Widening
IM-0055-01(097)
105877/301000

Lincoln County 4/28/2010



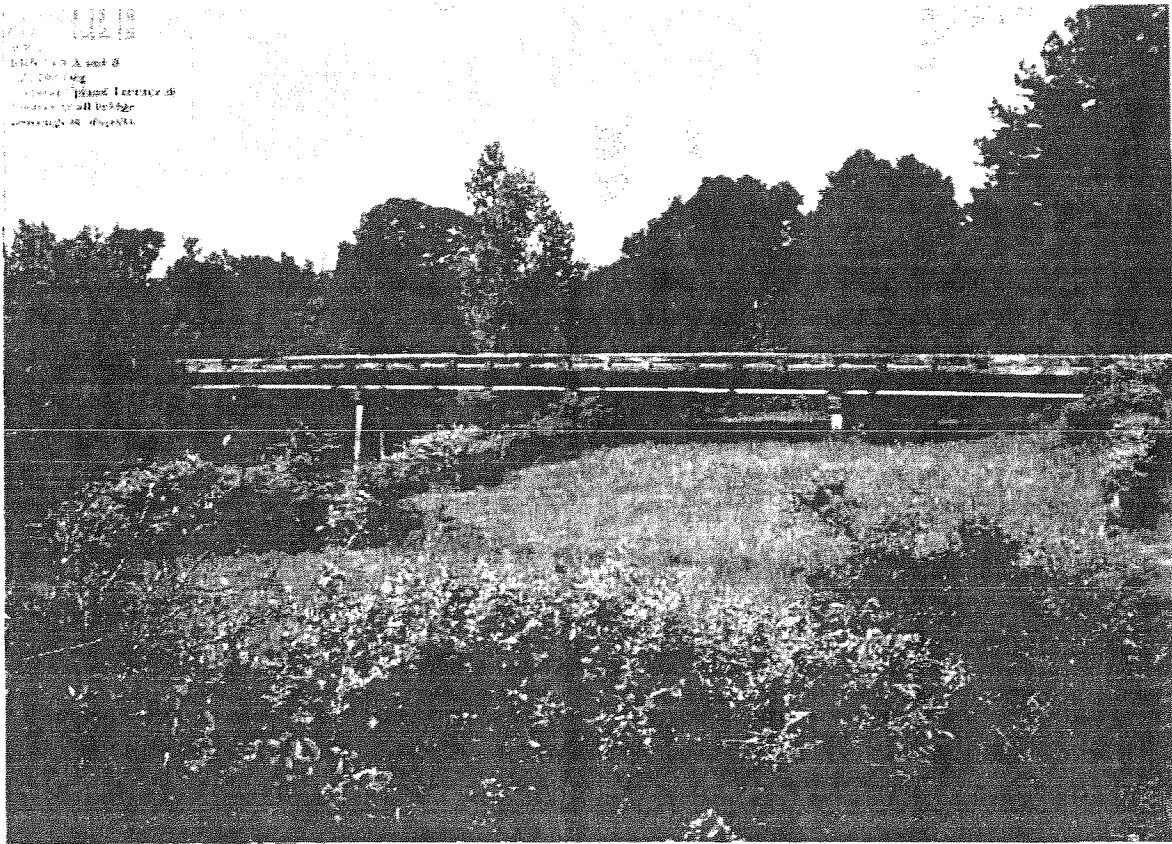
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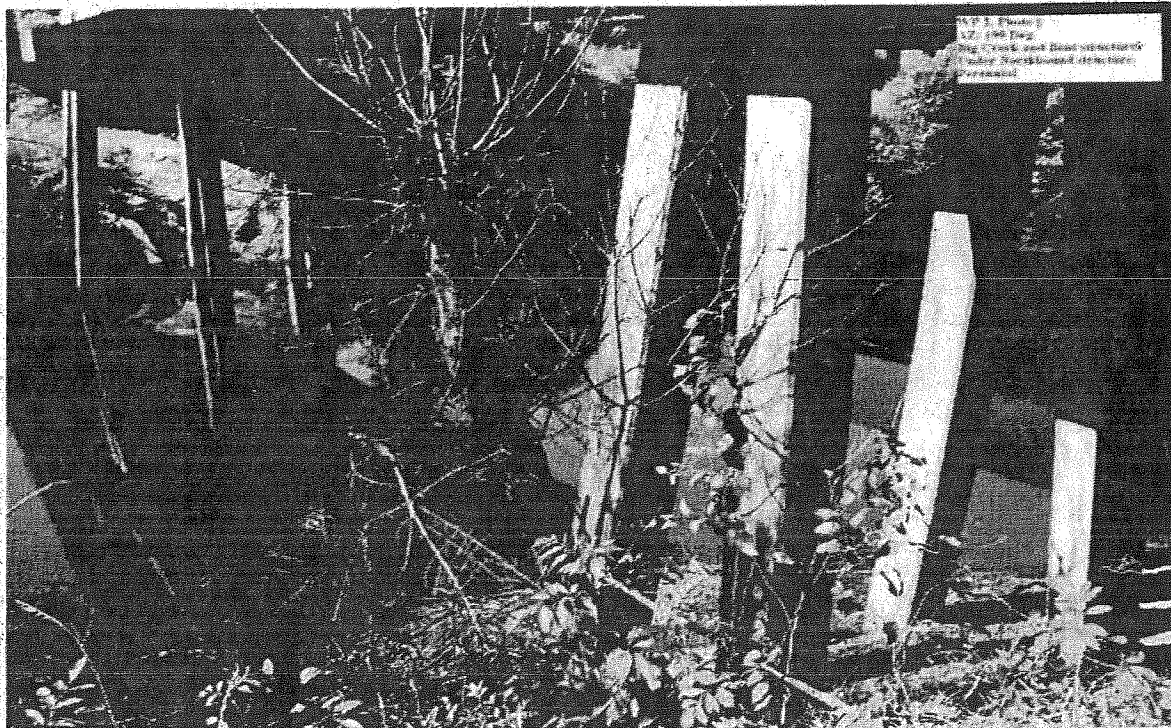
Lincoln County 4/28/2010

105877/301000
LINCOLN COUNTY
I-55 BRIDGE WIDENING
PROJECT
PHASE 1
BRIDGE 105877/301000
BRIDGE 105877/301000
BRIDGE 105877/301000



I-55 Bridge Widening
IM-0055-01(097)
105877/301000

Lincoln County 4/28/2010



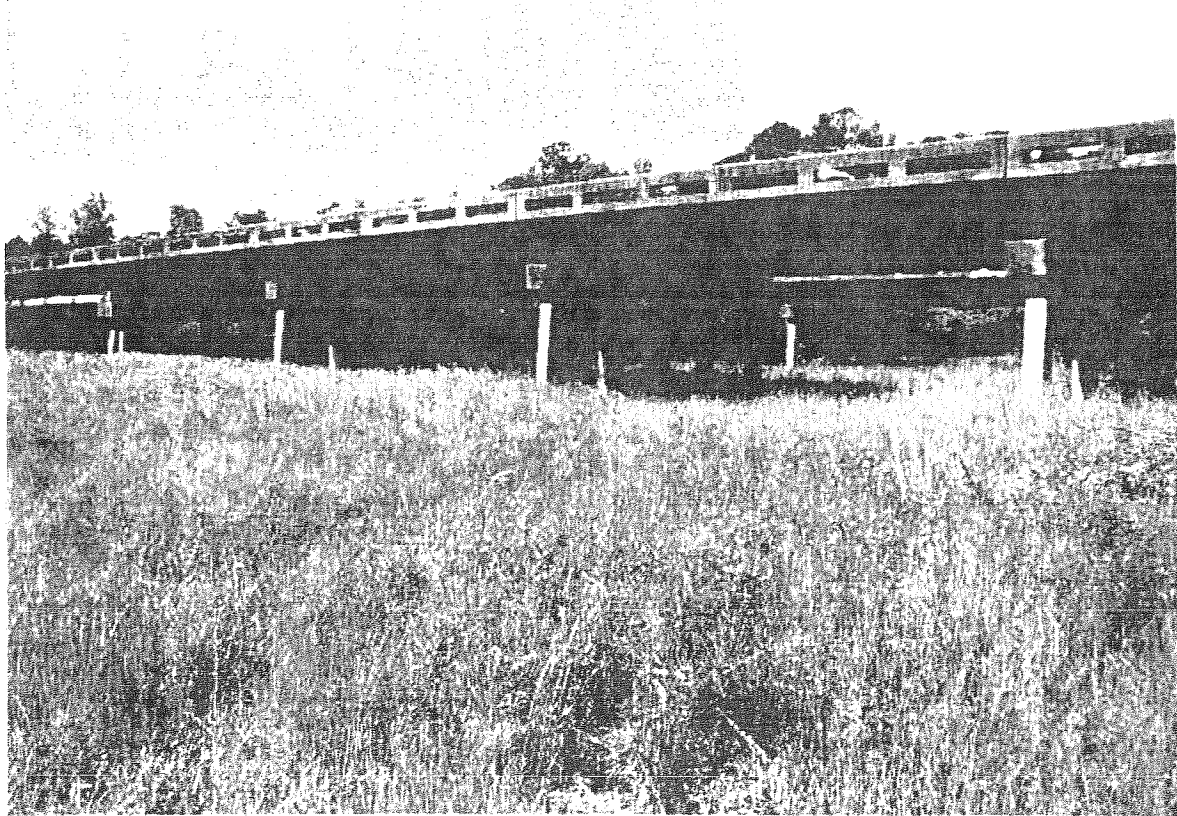
I-55 Bridge Widening

IM-0055-01(097)

105877/301000

Lincoln County 4/28/2010

Photo 1
AZ 150 Deg
RR 10.1 Area B
Tribal Land Terrest



I-55 Bridge Widening

IM-0055-01(097)

105877/301000

Lincoln County 4/28/2010



SPECIAL CONDITIONS

NATIONWIDE PERMIT No. 23

APPROVED CATEGORICAL EXCLUSIONS

1. Activities undertaken, assisted, authorized, regulated, funded, or financed, in whole or in part, by another Federal agency or department where:

(a) That agency or department has determined, pursuant to the Council on Environmental Quality's implementing regulations for the National Environmental Policy Act (40 CFR part 1500 et seq.), that the activity is categorically excluded from environmental documentation, because it is included within a category of actions which neither individually nor cumulatively have a significant effect on the human environment; and

(b) The Office of the Chief of Engineers (Attn: CECW-CO) has concurred with that agency's or department's determination that the activity is categorically excluded and approved the activity for authorization under NWP 23.

The Office of the Chief of Engineers may require additional conditions, including pre-construction notification, for authorization of an agency's categorical exclusions under this NWP. (Sections 10 and 404)

2. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

3. Notification: Certain categorical exclusions approved for authorization under this NWP require the permittee to submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 27). The activities that require pre-construction notification are listed in the appropriate Regulatory Guidance Letters. (Sections 10 and 404)

Note: The agency or department may submit an application for an activity believed to be categorically excluded to the Office of the Chief of Engineers (Attn: CECW-CO). Prior to approval for authorization under this NWP of any agency's activity, the Office of the Chief of Engineers will solicit public comment. As of the date of issuance of this NWP, agencies with approved categorical exclusions are the: Bureau of Reclamation, Federal Highway Administration, and U.S. Coast Guard. Activities approved for authorization under this NWP as of the date of this notice are

2007 NATIONWIDE PERMIT GENERAL CONDITIONS

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as appropriate, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP.

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR §800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, explaining the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate

Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

19. Designated Critical Resource Waters. Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the district engineer after notice and opportunity for public comment. The district engineer may also designate additional critical resource waters after notice and opportunity for comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, and 50 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 27, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

20. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10 acre and require pre-construction notification, unless the district engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. For wetland losses of 1/10 acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream restoration, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2 acre, it cannot be used to

authorize any project resulting in the loss of greater than 1/2 acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWP.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(g) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

(h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

21. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

22. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

23. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S.

EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

24. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

25. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

"When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

(Transferee)

(Date)

26. Compliance Certification. Each permittee who received an NWP verification from the Corps must submit a signed certification regarding the completed work and any required mitigation. The certification form must be forwarded by the Corps with the NWP verification letter and will include:

(a) A statement that the authorized work was done in accordance with the NWP authorization, including any general or specific conditions;

(b) A statement that any required mitigation was completed in accordance with the permit conditions; and

(c) The signature of the permittee certifying the completion of the work and mitigation.

27. Pre-Construction Notification. (a) Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, as a general rule, will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete

and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity:

(1) Until notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) If 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 17 that listed species or critical habitat might be affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 18 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) is completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee cannot begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed project;

(3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided result in a quicker decision.);

(4) The PCN must include a delineation of special aquatic sites and other waters of the United States on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters of the United States, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, where appropriate;

(5) If the proposed activity will result in the loss of greater than 1/10 acre of wetlands and a PCN is required, the prospective

permittee must submit a statement describing how the mitigation requirement will be satisfied. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and

(7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) Agency Coordination: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWP and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

(2) For all NWP 48 activities requiring pre-construction notification and for other NWP activities requiring pre-construction notification to the district engineer that result in the loss of greater than 1/2-acre of waters of the United States, the district engineer will immediately provide (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy of the PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(4) Applicants are encouraged to provide the Corps multiple copies of pre-construction notifications to expedite agency coordination.

(5) For NWP 48 activities that require reporting, the district engineer will provide a copy of each report within 10 calendar days of receipt to the appropriate regional office of the NMFS.

(e) District Engineer's Decision: In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If the proposed activity requires a PCN and will result in a loss of greater than 1/10 acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the district engineer will notify the permittee and include any conditions the district engineer deems necessary. The district engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP.

If the district engineer determines that the adverse effects of the proposed work are more than minimal, then the district engineer will notify the applicant either: (1) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (2) that the project is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or (3) that the project is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation plan that would reduce the adverse effects on the aquatic

environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan.

28. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

D. Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.

2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.

3. NWPs do not grant any property rights or exclusive privileges.

4. NWPs do not authorize any injury to the property or rights of others.

5. NWPs do not authorize interference with any existing or proposed Federal project.

REGIONAL CONDITIONS FOR NATIONWIDE PERMITS IN MISSISSIPPI

A. Regional Conditions for All Nationwide Permits

1. For all Nationwide Permit (NWP) authorizations in the Coastal Zone of Mississippi, which includes Hancock, Harrison, and Jackson Counties:

On March 26, 2007, the Mississippi Department of Marine Resources (DMR) found that all Nationwide Permits are consistent to the maximum extent practicable with the Mississippi Coastal Program (copy attached) provided that the following Regional Conditions are followed in the Coastal Zone of Mississippi.

a. For all Nationwide Permit (NWP) authorizations, including those for activities that do not require Pre-Construction Notification (PCN) to the District Engineer (DE), activities in the following waters of the U.S. cannot be initiated until the applicant has received a Coastal Use Permit (CUP) or waiver from the Mississippi Department of Marine Resources (MS-DMR). Those waters of the U.S. requiring a CUP or waiver from MS-DMR prior to project initiation include:

1. All tidal waters in Hancock, Harrison, and Jackson counties, Mississippi, and
2. All waters of the U.S. having a hydrological connection to tidal waters in "a" above and that are located no more than 200 feet landward of the mean high tide mark.

b. For all regulated activities in (i) tidal waters and/or (ii) waters of the U.S. adjacent to tidal waters located in Hancock, Harrison, or Jackson counties, all Pre-Construction Notifications (PCNs) required by a specific NWP shall be completed using the Joint Application Form and shall be submitted to the Mississippi Department of Marine Resources (DMR) at the following address:

Mississippi Department of Marine Resources
Bureau of Wetlands Permitting
1141 Bayview Drive
Suite 101
Biloxi, MS 39530

Joint Application Forms may be printed or downloaded from the Mississippi Department of Marine Resources (DMR) website at:
<http://www.dmr.state.ms.us/Coastal-Ecology/permitting/Joint-Application-Notification-Form2.pdf>, from the Vicksburg District Regulatory Program website at: <http://www.mvk.usace.army.mil/offices/od/odf/main.htm>, or from the Mobile District Regulatory Program website at:
<http://www.sam.usace.army.mil/RO/reg/application.htm>.

NOTE: Where the Corps District and DMR have developed Programmatic General Permits for the type of activity proposed, DMR may process and issue the appropriate DA permit(s) along with any required Coastal Use Permit requirements. For activities not covered by Programmatic General Permits, DMR shall forward all application materials to the appropriate Corps District office for processing of any required DA permits. If the application is forwarded to the Corps for processing, DMR shall notify the Corps District if a Coastal Use Permit will be required for the activity.

2. For all NWP authorizations on Black Creek in Perry County between Moody's Landing, downstream to the Fairley Bridge Road crossing - a federally designated Wild and Scenic River reach in Mississippi - the applicant must obtain a written statement from the U.S. Forest Service (USFS) that the activity will not adversely affect the Wild and Scenic River designation prior to initiating any construction activities (see General Condition 15). If the proposed activity otherwise requires pre-construction notification (PCN) to the Corps, the PCN must include such written statement of approval from the USFS. (U.S. Forest Service, P.O. Box 248, 654 West Frontage Road, Wiggins, MS 39577)

3. For all regulated activities, excluding those authorized under NWP 47, that might affect a Federally-listed threatened or endangered species or critical habitat - Pre-Construction Notification (PCN) shall be required. Waterways in Mississippi with reported occurrences of Federally-listed threatened or endangered species or critical habitat, as of July 1, 2007, are listed below. Applicants are advised that the U.S. Fish and Wildlife Service (USFWS) may change the Endangered Species Act status of species in Mississippi waterways, and those changes would affect the list of waterways and associated "Species of Concern". Further, this Regional Condition does not lessen the restrictions or requirements provided by General Condition 17. As stated in General Conditions 17 and 27 (72 FR 11092 - 11198), the PCN from non-Federal applicants must include the name(s) of the threatened or endangered species that might be affected by the proposed work or that utilize designated critical habitat that might be affected by the proposed work. PCNs from Federal applicants must include documentation of compliance with the Endangered Species Act. For NWP 6, 12, and 14 activities that trigger this PCN requirement, the PCN required by this condition may be limited to those portions of the activity that might affect a Federally-listed threatened or endangered species or critical habitat.

NOTE: The following definitions apply to the "listing index" following scientific names of the listed species of concern: C = Candidate Species; the U.S. Fish and Wildlife Service has enough scientific information to warrant proposing these species as endangered or threatened under the Endangered Species Act. CH = Critical Habitat; the U.S. Fish and Wildlife Service has designated official critical habitat for this species. LE = Listed Endangered; the U.S. Fish and Wildlife Service has listed these species as endangered under the Endangered Species Act. LT = Listed Threatened; the U.S. Fish and Wildlife Service has listed these species as threatened under the Endangered Species Act.

Bayou Pierre River and following tributaries: White Oak Creek, Foster Creek, and Turkey Creek - Located in Claiborne, Copiah, and Hinds Counties
Species of Concern: bayou darter (*Etheostoma rubrum* - LT)

Bear Creek - Located in Tishomingo County
Species of Concern: the cumberlandian combshell mussel (*Epioblasma brevidens* - LE) and the slabside pearlymussel (*Lexingtonia dolabelloides* - C)

Bogue Chitto River - Located in Pike County
Species of Concern: gulf sturgeon (*Acipenser oxyrhynchus desotoi*- LT, CH)
from State Highway 570 south

Mississippi River and adjacent land west of Main line levee - Located in the following Counties:
Adams Coahoma Jefferson Warren

Bolivar DeSoto Sharkey Washington
Claiborne Issaquena Tunica Wilkinson

Species of Concern: interior least tern (*Sterna antillarum* - LE), pallid sturgeon (*Scaphirhynchus albus* - LE), and/or the fat pocketbook (*Potamilus capax* - LE)

MS Coastal Waterways and Streams including: Back Bay of Biloxi, Biloxi River, Escatawpa River, Old Fort Bayou, Pascagoula River, and Tchoutacabouffa River - Located in Harrison and Jackson Counties
Species of Concern: Alabama red-bellied turtle (*Pseudemys alabamensis* - LE) and/or the yellow-blotched map turtle (*Graptemys flavimaculata* - LT)

Mississippi Sound and other back bays - Located in Hancock, Harrison, and Jackson Counties
Species of Concern: Brown pelican (*Pelecanus occidentalis* - LE), piping plover (*Charadrius melodus* - LE, CH), West Indian manatee (*Trichechus manatus* - LE), green turtle (*Chelonia mydas* - LT), kemp's ridley turtle (*Lepidochelys kempii* - LE), loggerhead turtle (*Caretta caretta* - LT), and/or the gulf sturgeon (*Acipenser oxyrhynchus desotoi* - LT, CH).

Pascagoula River and the following tributaries: Bouie, Chickasawhay, Okatoma, and Leaf Rivers - Located in the following Counties:

Clarke Greene Perry
Forrest Jackson Stone
George Jones Wayne

Species of Concern: yellow-blotched map turtle (*Graptemys flavimaculata* - LT), gulf sturgeon (*Acipenser oxyrhynchus desotoi* LT, CH), pearl darter (*Percina aurora* - C), and/or Alabama red-bellied turtle (*Pseudemys alabamensis* - LE)

Pearl River - Located in the following Counties:

Copiah Leake Neshoba Scott
Hinds Madison Pearl River Simpson
Lawrence Marion Rankin

Species of Concern: ringed map turtle (*Graptemys oculifera* - LT), gulf sturgeon (*Acipenser oxyrhynchus desotoi* - LE, CH), and/or the inflated heelsplitter (*Potamilus inflatus* - LT)

Tombigbee River and the following tributaries: Buttahatchie, Luxapalilla, and Bull Mountain - Located in Itawamba, Lowndes and Monroe Counties
Species of Concern: heavy pigtoe mussel (*Pleurobema taitianum* - LE), southern combshell mussel (*Epioblasma penita* - LE), southern clubshell mussel (*Pleurobema decisum* - LE), the ovate clubshell mussel (*Pleurobema perovatum* - LT), the black clubshell mussel (*Pleurobema curtum* - LE), the threatened Alabama moccasinshell (*Medionidus acutissimus* - LT), the threatened orange-nacre mucket (*Lampsilis perovalis* - LT)

NOTE: For all proposed activities requiring a PCN to the Corps, the Regulatory Project Manager shall coordinate with USFWS-Jackson, or its designee, and/or NMFS (if tidal waters or waters of the US that may influence tidal waters) to insure compliance with General Condition 17. The Corps' responsibility before initiating this coordination is to make a "No effect" or "May effect" determination for the activity. If sufficient information is not available from the applicant or from "in-house" information, the Corps may need to contact the USFWS/NMFS to first determine if T&E species or their critical habitat/essential fish habitat occur within the Project Area. If a "May Affect" determination is made, the Corps shall enter into informal

consultation with USFWS/NMFS. If informal consultation is initiated, the Corps must notify the applicant that the evaluation of the application has been delayed pending the outcome of the T&E species consultation.

Note: These PCN procedures may be modified at the completion of the Corps/USFWS effort to develop and implement Standard Local Operating Procedures for Endangered Species (SLOPES) for the State of Mississippi.

B. Corps Regional Conditions for Specific NWP's

1. Nationwide Permit 12. Utility Lines.

Pre-Construction Notification (PCN) to the appropriate District Engineer shall be required for all Section 404 regulated activities that include new construction by a commercial or municipal entity (i.e. excludes maintenance of existing structures or fill), where the activity extends beyond the boundaries of single property ownership, if impacts to the following species or their critical habitat may occur within the "Project Area" of the proposed NWP 12 activity. These PCNs will be submitted to other agencies for comment as appropriate (e.g. USFWS, SHPO, DEQ, etc.).

Gopher Tortoise (*Gopherus polyphemus* -LT), Black Pine Snake (*Pituophis melanoleucus* ssp. *Lodingi* - C), and/or Eastern Indigo Snake (*Drymarchon corais couperi* - LT), upland habitats - Located in Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Marion, Pearl River, Perry, Stone, Walthall, and Wayne Counties

Louisiana Black Bear (*Ursus americanus luteolus* -LT) - No existing den or candidate den trees may be felled within areas known to be occupied by the Louisiana black bear. (Candidate den trees are defined as bald cypress and/or tupelo gum with visible cavities, having a minimum diameter-at-breast-height of 36 inches, and associated with rivers, lakes, streams, bayous, sloughs or other waterbodies - Located in counties south of Mississippi Highway 82.)

Louisiana Quillwort (*Isoetes louisianaensis* - LE) - intermittent and small perennial streams - Located in Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Pearl River, Perry, Stone, and Wayne Counties

Mississippi Gopher Frog (*Rana sevosia* - LE) - Isolated ephemeral (temporary) ponds/wetlands located in upland long-leaf pine habitat - Located in Jackson and Harrison Counties

Mississippi Sandhill Crane (*Grus canadensis pulla* - LE) - pine savannas, brackish marsh, cultivated fields, and pasture lands within 5 miles of the Mississippi Sandhill Crane National Wildlife Refuge - Located in Jackson County

Pondberry (*Lindera melissifolia* - LE) - bottomland hardwood wetlands - Located in Bolivar, Sharkey, Sunflower, and Tallahatchie Counties

Price's potato bean (*Apios priceana* - LT) - wooded areas that grade into creek and river bottoms - Located in Chickasaw, Clay, Kemper, Lee, and Oktibbeha Counties

Red-cockaded woodpecker (*Picoides borealis* - LE), excavates nesting cavities in mature pine trees (60+ years old) - Located in Amite, Copiah, Forrest,

Franklin, George, Greene, Harrison, Jackson, Jasper, Jefferson, Jones, Lincoln, Noxubee, Oktibbeha, Perry, Scott, Smith, Stone, Wayne, Wilkinson, Winston, and Yalobusha Counties (primarily found on or near US National Forests)

Legend:

C = Candidate Species; the U.S. Fish and Wildlife Service has enough scientific information to warrant proposing these species as endangered or threatened under the Endangered Species Act.

CH = Critical Habitat; the U.S. Fish and Wildlife Service has designated official critical habitat for this species.

LE = Listed Endangered, the U.S. Fish and Wildlife Service has listed these species as endangered under the Endangered Species Act.

LT = Listed Threatened; the U.S. Fish and Wildlife Service has listed these species as threatened under the Endangered Species Act.

NOTE: For all proposed activities requiring a PCN to the Corps, the Regulatory Project Manager shall coordinate with USFWS-Jackson, or its designee, and/or NMFS (if tidal waters or waters of the US that may influence tidal waters) to insure compliance with General Condition 17. The Corps' responsibility before initiating this coordination is to make a "No effect" or "May effect" determination for the activity. If sufficient information is not available from the applicant or from "in-house" information, the Corps may need to contact the USFWS/NMFS to first determine if T&E species or their critical habitat/essential fish habitat occur within the Project Area. If a "May Affect" determination is made, the Corps shall enter into informal consultation with USFWS/NMFS. If informal consultation is initiated, the Corps must notify the applicant that the evaluation of the application has been delayed pending the outcome of the T&E species consultation. [Note: These PCN procedures may be modified at the completion of the Corps/USFWS effort to develop and implement Standard Local Operating Procedures for Endangered Species (SLOPES) for the State of Mississippi].

2. Nationwide Permit 14: Linear Transportation Crossings.

Pre-Construction Notification (PCN) to the appropriate District Engineer shall be required for all Section 404 regulated activities that include new construction by a commercial or municipal entity (i.e. excludes maintenance of existing structures or fill), where the activity extends beyond the boundaries of single property ownership, if impacts to the following species or their critical habitat may occur within the "Project Area" of the proposed NWP 14 activity. These PCNs will be submitted to other agencies for comment as appropriate (e.g. USFWS, SHPO, DEQ, etc.).

Gopher Tortoise (*Gopherus polyphemus* -LT), Black Pine Snake (*Pituophis melanoleucus* ssp. *Lodingi* - C), and/or Eastern Indigo Snake (*Drymarchon corais couperi* - LT), upland habitats - Located in Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Marion, Pearl River, Perry, Stone, Walthall, and Wayne Counties

Louisiana Black Bear (*Ursus americanus luteolus* -LT) - No existing den or candidate den trees may be felled within areas known to be occupied by the Louisiana black bear. (Candidate den trees are defined as bald cypress and/or tupelo gum with visible cavities, having a minimum diameter-at-breast-height

of 36 inches, and associated with rivers, lakes, streams, bayous, sloughs or other waterbodies - Located in counties south of Mississippi Highway 82.)

Louisiana Quillwort (*Isoetes louisianaensis* - LE) - intermittent and small perennial streams - Located in Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Pearl River, Perry, Stone, and Wayne Counties

Mississippi Gopher Frog (*Rana sevosa* - LE) - Isolated ephemeral (temporary) ponds/wetlands located in upland long-leaf pine habitat - Located in Jackson and Harrison Counties

Mississippi Sandhill Crane (*Grus canadensis pulla* - LE) - pine savannas, brackish marsh, cultivated fields, and pasture lands within 5 miles of the Mississippi Sandhill Crane National Wildlife Refuge - Located in Jackson County

Pondberry (*Lindera melissifolia* - LE) - bottomland hardwood wetlands - Located in Bolivar, Sharkey, Sunflower, and Tallahatchie Counties

Price's potato bean (*Apios priceana* - LT) - wooded areas that grade into creek and river bottoms - Located in Chickasaw, Clay, Kemper, Lee, and Oktibbeha Counties

Red-cockaded woodpecker (*Picoides borealis* - LE), excavates nesting cavities in mature pine trees (60+ years old) - Located in Amite, Copiah, Forrest, Franklin, George, Greene, Harrison, Jackson, Jasper, Jefferson, Jones, Lincoln, Noxubee, Oktibbeha, Perry, Scott, Smith, Stone, Wayne, Wilkinson, Winston, and Yalobusha Counties (primarily found on or near US National Forests)

Legend:

C = Candidate Species; the U.S. Fish and Wildlife Service has enough scientific information to warrant proposing these species as endangered or threatened under the Endangered Species Act.

CH = Critical Habitat; the U.S. Fish and Wildlife Service has designated official critical habitat for this species.

LE = Listed Endangered; the U.S. Fish and Wildlife Service has listed these species as endangered under the Endangered Species Act.

LT = Listed Threatened; the U.S. Fish and Wildlife Service has listed these species as threatened under the Endangered Species Act.

NOTE: For all proposed activities requiring a PCN to the Corps, the Regulatory Project Manager shall coordinate with USFWS-Jackson, or its designee, and/or NMFS (if tidal waters or waters of the US that may influence tidal waters) to insure compliance with General Condition 17. The Corps' responsibility before initiating this coordination is to make a "No effect" or "May effect" determination for the activity. If sufficient information is not available from the applicant or from "in-house" information, the Corps may need to contact the USFWS/NMFS to first determine if T&E species or their critical habitat/essential fish habitat occur within the Project Area. If a "May Affect" determination is made, the Corps shall enter into informal consultation with USFWS/NMFS. If informal consultation is initiated, the Corps must notify the applicant that the evaluation of the application has been delayed pending the outcome of the T&E species consultation. [Note: These PCN procedures may be modified at the completion of the Corps/USFWS

effort to develop and implement Standard Local Operating Procedures for Endangered Species (SLOPES) for the State of Mississippi].

3. Nationwide Permit 41: Reshaping Existing Drainage Ditches.

a. Any clearing of vegetation or side casting of excavated material shall be restricted to one side of the drainage ditch, where practicable, with gaps between side-cast material every 50 feet.

b. Banks shall be seeded and stabilized upon completion of excavation activities.

4. Nationwide Permit 44: Mining Activities.

Pre-Construction Notification to the appropriate Corps District is required for all NWP 44 activities, due to the denial of Water Quality Certification for NWP 44 by the Mississippi Department of Environmental Quality.

C. ADDITIONAL APPLICATION REVIEW REQUIREMENTS FOR PCNs FOR SPECIFIC NWPs

1. Complete PCNs for authorizations under NWPs 12, 14, 21, 29, 39, 40, 42, and 43 that include a discharge into a Monitored waterway of the Mississippi 303(d) waters listed for sediment or biological impairment or waterways with a completed TMDL for sediment or biological impairment shall include:

- a. a statement of why the discharge cannot be avoided;
- b. a description of best management practices that will be utilized on the project site to minimize adverse impacts within the project area at the site;
- c. if the Corps determines that compensation is required to insure that adverse impacts resulting from the activity will be no more than minimal, the applicant shall also submit a compensatory mitigation plan for approval by the Corps.

2. For PCNs described in C.1, above, the DE shall give Mississippi Department of Environmental Quality (MS-DEQ) staff an opportunity to comment on all of the above mitigation measures.

D. REGIONAL CONDITIONS FOR WATER QUALITY CERTIFICATION FOR MISSISSIPPI BAND OF CHOCTAW INDIAN TRIBAL LANDS

The Environmental Protection Agency, Region 4, issued water quality certifications for Nationwide Permit (NWP) activities on Mississippi Band of Choctaw Indian Tribal Lands on February 17, 2007 (copy attached). EPA stated that, as proposed, the NWPs would not violate water quality standards in waters of the United States located within these Tribal lands.

E. REGIONAL CONDITIONS FOR WATER QUALITY CERTIFICATION

The Mississippi Department of Environmental Quality issued Water Quality Certification decisions for the 49 NWPs by letter dated April 23, 2007 (copy attached). These WQC decisions are as follows:

1. NWP No. 44, Mining Activities. The Mississippi Department of Environmental Quality (DEQ) denied water quality certification for NWP No.

44, Mining Activities. Applicants shall obtain certification or a waiver from the Mississippi Department of Environmental Quality prior to commencement of work.

2. NWPs 3, 4, 5, 6, 7, 11, 13, 15, 16, 17, 19, 20, 22, 23, 25, 30, 32, 33, 34, 37, 38, 45, 46, 47, 48, 49, and 50 - The Mississippi Department of Environmental Quality (DEQ) issued water quality certification for these Nationwide Permits for a period of five years from its effective date, provided the projects comply with the following conditions: (Note: Nationwide Permit Nos. 1, 2, 8, 9, 10, 11, 24, 28, and 35 are not listed because they do not authorize section 404 regulated discharges and therefore do not require 401 WQCs). DEQ will be the primary responsible party for the enforcement of the water quality certification conditions listed below and may be contacted as follows:

Mississippi Department of Environmental Quality
Office of Pollution Control
Post Office Box 10385
Jackson, Mississippi 39289-0385
Telephone: (601) 961-5171

a. For discharges of dredged or fill materials associated with the construction of a residence or place where people are employed or congregate, the applicant should provide documentation that the residence or establishment can make a connection to an existing MDEQ approved central sewage collection and treatment system or provide a State Department of Health Soil and Site Evaluation System/Recommendation for an individual wastewater disposal system.

b. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity disturbing one or more acres.

c. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

d. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50-Nephelometric Turbidity Units.

3. NWP No. 12, Utility Line Activities, is authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

a. In cases where a pre-construction notification is required, a pre-construction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi 303(d) waters listed for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:

- (1) Justification of why the impacts cannot be avoided;
- (2) Proposed best management practices that would minimize the impacts to receiving sensitive waters;
- (3) Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.

b. MDEQ shall be notified of projects that have associated discharges of cuttings, drilling mud, hydrostatic testing water, or any other waste material.

c. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

d. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

e. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

4. NWP No. 13, Bank Stabilization, is authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

a. In cases where a pre-construction notification is required, a preconstruction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi 303(d) waters listed for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:

- (1) Justification of why the impacts cannot be avoided;
- (2) Proposed best management practices that would minimize the impacts to receiving sensitive waters;
- (3) Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.

b. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

c. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

d. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

5. NWP No. 14, Linear Transportation Crossings, is authorized by this certification for a period of five years from its effective date, provided projects comply with the following conditions:

a. Extreme care shall be taken to prevent the permanent restriction or impedance of water flow. Pre-construction hydrology shall be maintained.

b. This NWP shall not apply to natural tidal waters for personal transportation.

c. In cases where a pre-construction notification is required, a preconstruction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi 303(d) waters listed for sediment or biological impairment or waterways with a

completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:

- (1) Justification of why the impacts cannot be avoided;
- (2) Proposed best management practices that would minimize the impacts to receiving sensitive waters;
- (3) Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.

d. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity disturbing one or more acres.

e. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

f. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50-Nephelometric Turbidity Units.

6. NWP No. 18, Minor Discharges, is authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

a. For discharges of dredged or fill materials associated with the construction of a residence or place where people are employed or congregate, the activity must comply with the following:

(1) The applicant shall provide documentation that the residence or establishment can make a connection to the an existing MDEQ approved central sewage collection and treatment system or provide a State Department of Health Soil and Site Evaluation System/Recommendation for an individual wastewater disposal system.

(2) A no-fill buffer zone shall be permanently maintained between any construction activity and any waterbody. The minimum buffer zone for the subject parcel is defined as 15% of the parcel depth. The parcel depth is defined as the maximum length of a line extending from the Ordinary High Water Mark (OHWM) and/or top bank or High Tide Line (HTL) to the opposite property boundary. In cases of an asymmetrical parcel, the Parcel Depth will be measured as the maximum length of a line extending from OHWM or HTL to the junction of two landward property boundaries. The buffer zone shall be measured as the distance between the edge of the construction activity and the top bank of the adjacent water body or HTL.

b. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

c. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

d. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

7. NWP No. 21, Surface Coal Mining Operations, is authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

a. In cases where a pre-construction notification is required, a preconstruction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi 303(d) waters listed for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:

- (1) Justification of why the impacts cannot be avoided;
- (2) Proposed best management practices that would minimize the impacts to receiving sensitive waters;
- (3) Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.

b. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

c. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

d. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

8. NWP No. 27, Stream and Wetland Restoration Activities, is authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

a. For permitting of activities associated with mitigation banking, a Mitigation Banking Instrument approved by the Mitigation Banking Review Team shall be required.

b. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

c. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

d. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

9. NWP No. 28, Modifications of Existing Marinas, is authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

a. This NWP shall only apply to marinas that have an existing operating wastewater pump-out facility with appropriate signage showing its location as well as other appropriate waste disposal information.

b. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water

associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

c. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

d. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

10. NWP No. 29, Residential Developments, is authorized by this certification for a period of five years from its effective date provided the projects comply with the following conditions:

a. Intermittent stream impacts in excess of 300 linear feet shall not be authorized by this certification.

b. For discharges of dredged or fill materials associated with the construction of a residence or place where people are employed or congregate, the activity must comply with the following:

(1) The applicant shall provide documentation that the residence or establishment can make a connection to the an existing MDEQ approved central sewage collection and treatment system or provide a State Department of Health Soil and Site Evaluation System/Recommendation for an individual wastewater disposal system.

(2) A no-fill buffer zone shall be permanently maintained between any construction activity and any waterbody. The minimum buffer zone for the subject parcel is defined as 15% of the parcel depth. The parcel depth is defined as the maximum length of a line extending from the Ordinary High Water Mark (OHWM) and/or top bank or High Tide Line (HTL) to the opposite property boundary. In cases of an asymmetrical parcel, the Parcel Depth will be measured as the maximum length of a line extending from OHWM or HTL to the junction of two landward property boundaries. The buffer zone shall be measured as the distance between the edge of the construction activity and the top bank of the adjacent water body or HTL.

c. In cases where a pre-construction notification is required, a preconstruction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi 303(d) waters listed for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:

- (1) Justification of why the impacts cannot be avoided;
- (2) Proposed best management practices that would minimize the impacts to receiving sensitive waters;
- (3) Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.

d. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

e. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

f. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

11. NWP No. 31, Maintenance of Existing Flood Control Facilities, is authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

a. Maintenance work shall not exceed the limitation or contours previously authorized by a Department of the Army Permit.

b. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

c. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

d. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

12. NWP No. 36, Boat Ramps, is authorized by this certification for a period of five years from its effective date provided the projects comply with the following conditions:

a. Boat ramp parking areas with impervious surfaces (concrete, asphalt) that have a surface area equal to or greater than one acre shall provide for storm water management. The first 0.5 inch of storm water runoff from impervious parking and road surfaces shall be treated using MDEQ approved best management practices before release. The storm water plan should be submitted upon application for coverage under a NWP and shall be forwarded to MDEQ.

b. For discharges of dredged or fill materials associated with the construction of a residence or place where people are employed or congregate, the applicant should provide documentation that the residence or establishment can make a connection to an existing MDEQ approved central sewage collection and treatment system or provide a State Department of Health Soil and Site Evaluation System/Recommendation for an individual wastewater disposal system.

c. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

d. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

e. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

13. NWP No. 39, Commercial and Institutional Developments, is authorized by this permit for a period of five years from its effective date, provided the projects comply with the following conditions:

a. Intermittent stream impacts in excess of 300 linear feet shall not be authorized by this certification.

b. For discharges of dredged or fill materials associated with the construction of a residence or place where people are employed or congregate, the applicant should provide documentation that the residence or establishment can make a connection to an existing MDEQ approved central sewage collection and treatment system or provide a State Department of Health Soil and Site Evaluation System/Recommendation for an individual wastewater disposal system.

c. In cases where a pre-construction notification is required, a preconstruction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi 303(d) waters listed for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:

- (1) Justification of why the impacts cannot be avoided;
- (2) Proposed best management practices that would minimize the impacts to receiving sensitive waters;
- (3) Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.

d. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

e. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

f. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

14. NWP No. 40, Agricultural Activities, is authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

a. For discharges of dredged or fill materials associated with the construction of a residence or place where people are employed or congregate, the applicant should provide documentation that the residence or establishment can make a connection to an existing MDEQ approved central sewage collection and treatment system or provide a State Department of Health Soil and Site Evaluation System/Recommendation for an individual wastewater disposal system.

b. In cases where a pre-construction notification is required, a preconstruction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi 303(d) waters listed for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:

- (1) Justification of why the impacts cannot be avoided;
- (2) Proposed best management practices that would minimize the impacts to receiving sensitive waters;
- (3) Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.

c. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

d. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

e. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

15. NWP No. 41, Reshaping Existing Drainage Ditches, is authorized by this certification for a period of five years from their effective date, provided the projects comply with the following conditions:

a. The side slopes of banks and spoil disposal areas shall be 3:1 (horizontal:vertical) or flatter.

b. This NWP shall apply to created ditches only. No impacts to naturalized streams shall be allowed.

c. This NWP shall not authorize the modification of more than 500 linear feet of existing serviceable drainage ditches constructed in non-tidal waters.

d. Buffer zones shall be 25 feet minimum from top of drainage ditch.

e. Spoil disposal area shall be discontinuous and immediately seeded and stabilized to prevent the movement of sediment off-site and into adjacent drainage areas.

f. Work shall be conducted from one side of the waterbody only, where possible.

g. Large trees on the work side shall be avoided where possible.

h. Banks shall be immediately seeded and stabilized upon completion of construction.

i. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

j. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

k. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

16. NWP No. 42, Recreational Activities, is authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

a. Intermittent stream impacts in excess of 300 linear feet shall not be authorized by this certification.

b. For the construction or expansion of golf courses or attendant features, the applicant shall obtain approval or waiver for a Storm Water Quality Management Plan from MDEQ prior to construction.

c. For discharges of dredged or fill materials associated with the construction of a residence or place where people are employed or congregate, the applicant should provide documentation that the residence or establishment can make a connection to an existing MDEQ approved central sewage collection and treatment system or provide a State Department of Health Soil and Site Evaluation System/Recommendation for an individual wastewater disposal system.

d. In cases where a pre-construction notification is required, a preconstruction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi 303(d) waters listed for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:

- (1) Justification of why the impacts cannot be avoided;
- (2) Proposed best management practices that would minimize the impacts to receiving sensitive waters;
- (3) Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.

e. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

f. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

g. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

17. NWP No. 43, Storm Water Management Facilities, is authorized by this certification for a period of five years from its effective date, provided the projects comply with the following conditions:

a. Intermittent stream impacts in excess of 300 linear feet shall not be authorized by this certification.

b. This certification shall not authorize in-stream treatment of stormwater.

c. For discharges of dredged or fill materials associated with the construction of a residence or place where people are employed or congregate, the applicant should provide documentation that the residence or establishment can make a connection to an existing MDEQ approved central

sewage collection and treatment system or provide a State Department of Health Soil and Site Evaluation System/Recommendation for an individual wastewater disposal system.

d. In cases where a pre-construction notification is required, a preconstruction notification shall be provided to MDEQ for projects that include channel work within a Monitored waterway of the Mississippi 303(d) waters listed for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:

- (1) Justification of why the impacts cannot be avoided;
- (2) Proposed best management practices that would minimize the impacts to receiving sensitive waters;
- (3) Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.

e. The applicant shall obtain coverage under the State's Storm Water Construction General Permit (MSR10) in order to discharge storm water associated with construction activity including clearing, grading, excavation, and other land disturbance activity disturbing one or more acres.

Certification of Compliance
With Department of the Army Permit

General Permit Number: NW 23
Identification Number: MVM-2010-763
Name of Permittee: MDOT
Issued Date: 5/6/2010
Evaluator name: Mr. Anthony Lobred
Expiration Date: 5/6/2012

Upon completion of the activity authorized by this permit, sign this certification and return it to the following address:

USACE, Vicksburg District
ATTN: Regulatory Branch
4155 Clay Street
Vicksburg, Mississippi 39183-3435

Please note that your permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to comply with this permit, you are subject to permit modification, suspension, or revocation.

I hereby certify that the work authorized by the above-referenced permit has been completed in accordance with the terms and conditions of the said permit including any required mitigation.

Date work was completed: _____

Signature of Permittee

Date Signed

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: MDOT	File Number: MVK-2010-763	Date: May 6, 2010
Attached is:		See Section Below
<input type="checkbox"/>	INITIAL PROFFERED PERMIT (Standard Permit or Letter of Permission)	A
<input type="checkbox"/>	PROFFERED PERMIT (Standard Permit or Letter of Permission)	B
<input type="checkbox"/>	PERMIT DENIAL	C
<input type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	D
<input checked="" type="checkbox"/>	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations (JD) associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.